

<p style="text-align: center;">Page 1</p> <p>1 COMMONWEALTH OF MASSACHUSETTS 2 SUFFOLK, SS. 3 SUPERIOR COURT 4 CIVIL ACTION NUMBER: SUCV-2004-02264</p> <p>5 ABRAHAM PHILIP, M.D., 6 Plaintiff, 7 VS 8 DR. RICHARD EVANS, M.D., IN HIS OFFICIAL CAPACITY AND 9 PERSONAL CAPACITY, ET AL. 10 Defendants.</p> <p>11 UNITED STATES DISTRICT COURT 12 COMMONWEALTH OF MASSACHUSETTS 13 CIVIL ACTION NUMBER: 04-CV-11069-JLT</p> <p>14 ABRAHAM PHILIP, M.D., 15 Plaintiff, 16 VS 17 JOHN CRONIN, IN HIS PERSONAL CAPACITY, 18 Defendant.</p> <p>19 DEPOSITION OF ABRAHAM PHILIP, M.D., 20 taken on behalf of the Defendants pursuant to 21 the applicable provisions of the Massachusetts 22 Rules of Civil Procedure and Federal Rules of 23 Civil Procedure, before Susan A. Romano, Notary 24 Public, Registered Merit Reporter and Certified Realtime Reporter within and for the Commonwealth of Massachusetts, at the Offices of Attorney General's Office, 200 Portland Street, Boston, Massachusetts on July 21, 2005 at 10:11 a.m., as follows:</p>	<p style="text-align: center;">Page 2</p> <p>1 APPEARANCES: 2 3 ON BEHALF OF PLAINTIFF: 4 DANIEL S. SHARP, ESQ. 5 Whitfield Sharp & Sharp 6 196 Atlantic Avenue 7 Marblehead, Massachusetts 01945 8 781.639.1862 9 dansharp@sharplaw.biz</p> <p>10 11 ON BEHALF OF DEFENDANTS: 12 JEAN KELLEY, AAG, ESQ. 13 Commonwealth of Massachusetts 14 Office of the Attorney General 15 200 Portland Street 16 Boston, Massachusetts 02114 17 617.727.2200</p> <p>18 19 ALSO PRESENT: 20 JACQUELINE FAHERTY, GENERAL COUNSEL, OCME 21 LAUREN SULLIVAN, STUDENT REPORTER</p> <p>22 23 24</p>
<p style="text-align: center;">Page 3</p> <p>1 EXAMINATION INDEX OF ABRAHAM PHILIP, M.D. 2 JULY 21, 2005</p> <p>3 4 EXAMINATION OF PAGE 5 6 ABRAHAM PHILIP, M.D.: 7 EXAMINATION BY MS. KELLEY 5</p> <p>8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: center;">Page 4</p> <p>1 DEPOSITION OF ABRAHAM PHILIP, M.D. 2 JULY 21, 2005 3 PROCEEDINGS: 4 MS. KELLEY: Dan, is it 5 okay if we agree that all objections, 6 except as to form, and all motions to 7 strike are reserved until the time of 8 trial?</p> <p>9 MR. SHARP: That's okay. 10 MS. KELLEY: And your 11 witness would like to read and sign the 12 deposition transcript? 13 MR. SHARP: Yes. 14 MS. KELLEY: But waive 15 notarization? 16 MR. SHARP: Yes. 17 MS. KELLEY: And can we 18 deem it to have been signed 30 days after 19 receipt? 20 MR. SHARP: Thirty days is 21 good. 22 ABRAHAM PHILIP, M.D., the deponent, 23 having been satisfactorily identified and 24 duly sworn by the Notary Public, was</p>



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<p>Page 5</p> <p>1 examined and testified as follows:</p> <p>2 EXAMINATION</p> <p>3 BY-MS.KELLEY:</p> <p>4 Q. As I indicated off the record to</p> <p>5 the stenographer, this deposition is being</p> <p>6 taken in conjunction with both the federal</p> <p>7 case that you have filed against John</p> <p>8 Cronin and the state case that you have</p> <p>9 filed against Doctor Evans and others. Do</p> <p>10 you understand that, Doctor Philip?</p> <p>11 A. Yes.</p> <p>12 MS. KELLEY: Could we have</p> <p>13 this marked as the first exhibit?</p> <p>14 (Exhibit-1, Curriculum Vitae</p> <p>15 Bates Stamped AGO-0181 through AGO-0189,</p> <p>16 marked for identification).</p> <p>17 BY MS. KELLEY:</p> <p>18 Q. Doctor Philip, I'm putting before</p> <p>19 you what's been marked Exhibit Number 1 at</p> <p>20 this deposition. Can you review that</p> <p>21 document?</p> <p>22 MR. SHARP: Don't let me</p> <p>23 hold you up.</p> <p>24 BY MS. KELLEY:</p>	<p>Page 6</p> <p>1 Q. Okay. Are you able to identify</p> <p>2 that document, Doctor Philip?</p> <p>3 A. (Witness viewing document). Yes.</p> <p>4 Q. What is that?</p> <p>5 A. (Witness viewing document). It's</p> <p>6 an old version of my curriculum vitae.</p> <p>7 Q. Do you recall approximately the</p> <p>8 date that that document was prepared?</p> <p>9 A. No. I would think at some time in</p> <p>10 2003.</p> <p>11 Q. Since that time have you prepared</p> <p>12 an updated curriculum vitae?</p> <p>13 A. Yes, I have.</p> <p>14 Q. And do you still retain a copy of</p> <p>15 that document?</p> <p>16 A. Yes, I do.</p> <p>17 MS. KELLEY: I'd like to</p> <p>18 request that a copy of that be produced.</p> <p>19 BY MS. KELLEY:</p> <p>20 Q. Now, since this document that's</p> <p>21 been produced as Exhibit Number 1, Doctor</p> <p>22 Philip, can you orally update us on what</p> <p>23 you've done since this curriculum vitae</p> <p>24 was prepared?</p>
<p>Page 7</p> <p>1 A. This was, according to the cover</p> <p>2 letter attached to the document, was</p> <p>3 prepared or submitted around August 2003.</p> <p>4 Since then, on September 2nd, I started</p> <p>5 work at the Office of the Chief Medical</p> <p>6 Examiner, and the employment was terminated</p> <p>7 March 3rd.</p> <p>8 Q. And when you say March 3rd, March</p> <p>9 3rd of 2004?</p> <p>10 A. 2004.</p> <p>11 Q. What did you do after that?</p> <p>12 A. Since June 2004, I've been working</p> <p>13 part time at the Office of the Chief</p> <p>14 Medical Examiner in Syracuse.</p> <p>15 Q. Syracuse, New York?</p> <p>16 A. That's correct.</p> <p>17 Q. When you say part-time, how many</p> <p>18 hours a week do you work?</p> <p>19 A. I worked all weekends during summer</p> <p>20 of last year and have been working about</p> <p>21 three to four days every month since</p> <p>22 January.</p> <p>23 Q. And what do you get paid for that?</p> <p>24 A. I get paid a per diem amount of</p>	<p>Page 8</p> <p>1 \$600.</p> <p>2 Q. And other than that, have you had</p> <p>3 any other employment since your termination</p> <p>4 in March of '04?</p> <p>5 A. Yes.</p> <p>6 Q. What other employment have you had?</p> <p>7 A. I used to review workplace drug</p> <p>8 testing for a company based in</p> <p>9 Philadelphia.</p> <p>10 Q. What company is that?</p> <p>11 A. University Services.</p> <p>12 Q. When did you do that?</p> <p>13 A. I was working with the company on</p> <p>14 and off since 1998.</p> <p>15 Q. Are you still employed by them?</p> <p>16 A. No. The last cases I did was in</p> <p>17 December last year.</p> <p>18 Q. And during the time that you were</p> <p>19 employed at the Medical Examiner's Office,</p> <p>20 did you have any employment with this</p> <p>21 University Services?</p> <p>22 A. Yes. I was moonlighting for them.</p> <p>23 Q. When you say you've been working</p> <p>24 with them on and off, approximately how</p>



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1 much -- how many hours per month would you
 2 work during that period 1998 to December?
 3 A. It would come to less than about
 4 ten hours a week.
 5 Q. Is that an average or was it always
 6 less than ten hours a month [sic]?
 7 A. It was always less than ten hours.
 8 Q. What did you get paid for that?
 9 A. Again, it used to be per case, and
 10 I would be paid initially 15 and then
 11 later \$20 per case.
 12 Q. Fifteen dollars?
 13 A. Per case.
 14 Q. And what would a case entail?
 15 A. A case entailed reviewing a drug
 16 screen -- workplace drug screen report
 17 and seeing if the results could be
 18 canceled based on the person getting
 19 medical -- having a medical explanation
 20 for the positive result.
 21 Q. And about how many of those cases
 22 would you be able to complete in an hour?
 23 A. Fifteen in a couple of hours.
 24 Q. Fifteen cases in a couple of hours?

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1 A. Yes.
 2 Q. Are you no longer employed with
 3 University Services?
 4 A. No, I'm not.
 5 Q. And why is that?
 6 A. They decided to move the work
 7 in-house and hire two people in
 8 Philadelphia.
 9 Q. Who is your supervisor in Syracuse?
 10 A. Doctor Mary Jumbelic.
 11 Q. How do you spell that?
 12 A. J-U-M-B-E-L-I-C.
 13 Q. And would you say you have a good
 14 relationship with him?
 15 A. With her. Yes.
 16 Q. Oh, excuse me. I thought you said
 17 Larry.
 18 A. Mary.
 19 Q. Mary. Oh, sorry. You have a good
 20 relationship with Doctor Jumbelic?
 21 A. Yes.
 22 Q. Other than the employment you've
 23 just described, have you had any other
 24 employment since March of '04?

Page 11

1 A. No.
 2 Q. Have you applied for any other
 3 positions in medical examiners' offices
 4 since March of '04?
 5 A. I have.
 6 Q. Excuse me?
 7 A. I have.
 8 Q. Where else have you applied?
 9 A. I've applied to several places that
 10 advertised positions on the name list
 11 serve.
 12 Q. Where were those located?
 13 A. Peoria, Illinois; Houston, Texas;
 14 Austin, Texas; Atlanta, Georgia; Memphis,
 15 Tennessee.
 16 Q. Did you have interviews with any of
 17 those places?
 18 A. I had interviews with Peoria,
 19 Houston and Atlanta.
 20 Q. And were those for full-time
 21 positions?
 22 A. Yes.
 23 Q. And you weren't hired?
 24 A. I didn't come to that. Initially,

Page 12

1 I had these interviews, and then I decided
 2 to complete the boards and look for
 3 employment after I finished the boards.
 4 Q. When you say "boards," is that the
 5 exams to become board certified?
 6 A. In forensic pathology, yes.
 7 Q. And you've taken those boards
 8 several times?
 9 A. Twice.
 10 Q. You've taken them twice and failed
 11 twice?
 12 A. No, I passed the last time.
 13 Q. Didn't you fail twice before you
 14 passed?
 15 A. No, just once.
 16 Q. What were the dates that you took
 17 the boards?
 18 A. I took it in September 2002 -- oh,
 19 you're right. September 2002, 2003 and
 20 2004, November 2004.
 21 Q. So September 2002, September
 22 2003 --
 23 A. And November 2004.
 24 Q. Oh, okay. And the first two times



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<p>Page 13</p> <p>1 you failed. 2 A. That's correct. 3 Q. And the third time you passed? 4 A. Yes. 5 Q. And that's to become board 6 certified as a forensic pathologist. 7 A. That's correct. 8 Q. So currently you are board 9 certified. 10 A. I am. 11 Q. So is it fair to say from your 12 testimony you withdrew your application 13 from these places where you were 14 interviewed? 15 A. That's correct. 16 Q. And no decision was made by them to 17 not hire you. 18 A. That's correct. 19 Q. Doctor, were you involved in a 20 fellowship at the Medical Examiner's Office 21 in Massachusetts in the year 2000? 22 A. Yes. 23 Q. Was that the first time that you 24 were employed in any capacity at the</p>	<p>Page 14</p> <p>1 Medical Examiner's Office in Massachusetts? 2 A. That's correct. 3 Q. And can you describe the 4 circumstances of that fellowship? 5 MR. SHARP: Objection. I 6 don't understand that question. 7 BY MS. KELLEY: 8 Q. Well, how did that come about, the 9 fellowship? 10 A. I applied for the fellowship, and 11 initially I was told that I'd been 12 selected by Doctor Stanton Kessler. And 13 he said I would be able to start earlier 14 than the normal starting period of July, 15 1st of July, but then that didn't work 16 out, so I started on 1st of July, 2000. 17 Q. And was this a paid fellowship? 18 A. Yes, it was. 19 Q. And who was -- Strike that. 20 Where did the money come to fund 21 this fellowship? 22 A. From the New England Organ Bank. 23 Q. Is that who you had to apply to? 24 A. No. I just applied to the Office</p>
<p>Page 15</p> <p>1 of the Chief Medical Examiner. 2 Q. And as part of this fellowship, 3 were you given any training? 4 A. Not formally. 5 Q. What did you do during this 6 fellowship? 7 A. Autopsies, court testimony. 8 Q. Had you worked as a forensic 9 pathologist before July of 2000? 10 A. Yes. 11 Q. Where had you worked? 12 A. In India. 13 Q. Was there a particular reason that 14 you applied for a fellowship in 2000? 15 A. I was interested in forensic. 16 Q. Excuse me? 17 A. I was interested in forensic. 18 Q. Was it your understanding that this 19 would somehow help you become a 20 pathologist on a full-time basis in the 21 United States? 22 A. No. 23 Q. Is there a reason you applied for a 24 fellowship as opposed to just applying for</p>	<p>Page 16</p> <p>1 a job as a forensic pathologist? 2 A. Oh, my Indian qualifications are 3 not recognized here and I have to do a 4 fellowship. 5 Q. And how long a fellowship did you 6 have to do? 7 A. One year. 8 Q. And then that would be sufficient 9 to have your qualifications recognized? 10 A. Yes. 11 Q. During that fellowship, were you 12 under the supervision of Doctor Kessler? 13 A. Yes, until he left in the middle of 14 the year. 15 Q. Who replaced him? 16 A. I believe Faryl Sandler. 17 Q. I'm sorry. Who? 18 A. Faryl Sandler. 19 Q. And she's still employed at the 20 Medical Examiner's Office, to your 21 knowledge? 22 A. I have no clue. 23 Q. She was still employed there in 24 March of '04?</p>



Page 17

1 A. Yes.
 2 Q. So you worked during that one year
 3 fellowship; is that correct?
 4 A. That's right.
 5 Q. Did that end at the end of June of
 6 2001?
 7 A. Yes.
 8 Q. What did you do next?
 9 A. I was employed as staff
 10 pathologist.
 11 Q. Still by the Medical Examiner's
 12 Office in Massachusetts?
 13 A. That's correct.
 14 Q. Was that as -- Strike that.
 15 Were you employed as an employee or
 16 were you under a contract?
 17 A. I was under a contract.
 18 Q. Was that a one-year contract?
 19 A. No, it was not.
 20 Q. Six-month contract?
 21 A. I don't recall. Might have been
 22 three months or six months.
 23 Q. Okay. Do you recall -- Does it
 24 refresh your recollection that it may have

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1 been a six-month contract followed by two
 2 three-month extensions?
 3 A. That's likely.
 4 Q. And during that period of time were
 5 you supervised by Doctor Sandler?
 6 A. No.
 7 Q. Who was your supervisor?
 8 A. Richard Evans.
 9 Q. During that whole period?
 10 A. Yes.
 11 Q. When had he become chief medical
 12 examiner in Massachusetts?
 13 A. I believe 1993.
 14 Q. Your fellowship ended in 2001 --
 15 A. Correct.
 16 Q. -- and then you said you were
 17 supervised after that as a staff
 18 pathologist. You were supervised by
 19 Doctor Evans?
 20 A. That's correct.
 21 Q. So was he the chief medical
 22 examiner in 2001?
 23 A. Yes, he was.
 24 Q. And that continued through until

Page 19

1 2003 and into 2004?
 2 A. No. I think in 2003, his status
 3 changed to active -- acting chief medical
 4 examiner.
 5 Q. Okay. And he remained in that role
 6 until March of 2004 to the best of your
 7 knowledge?
 8 A. Yes.
 9 Q. After your fellowship, is it fair
 10 to say that you did work as a staff
 11 pathologist for one additional year under
 12 contract?
 13 A. Yes.
 14 Q. And that would have terminated in
 15 the summer of 2002.
 16 A. June 30, 2002.
 17 Q. What did you do next?
 18 A. I sent out several applications.
 19 Q. And was one of those applications
 20 to the New York Medical Examiner's Office?
 21 A. Yes, it was.
 22 Q. Were you hired to work in New York?
 23 A. Yes, I was.
 24 Q. And was that New York City?

Page 20

1 A. Yes, it was.
 2 Q. Who did you work under in that
 3 office?
 4 A. Doctor Charles Hirsch.
 5 Q. And could you spell that for the
 6 record?
 7 A. H-I-R-S-C-H. Charles.
 8 Q. Were you an employee or were you
 9 under a contract?
 10 A. I was an employee.
 11 Q. And were you continuing to function
 12 as a staff pathologist?
 13 A. Yes.
 14 Q. How long did you remain in that
 15 position?
 16 A. 'Til June -- end of June 2003.
 17 Q. Had you started the end of June
 18 2002 --
 19 A. No.
 20 Q. -- or at the beginning of July?
 21 A. I started in October 2002.
 22 Q. And did you have any evaluations
 23 while you were in that position?
 24 A. There must have been.



<p>Page 21</p> <p>1 Q. You don't recall any?</p> <p>2 A. I was not given any copies.</p> <p>3 Q. Were you spoken to about any</p> <p>4 evaluation of yourself?</p> <p>5 A. No.</p> <p>6 Q. Did you have reason to believe that</p> <p>7 you could continue your employment there</p> <p>8 if you wanted to?</p> <p>9 A. Yes.</p> <p>10 Q. Why did you leave the New York</p> <p>11 Medical Examiner's Office?</p> <p>12 A. Because it was just too much of a</p> <p>13 stress on my wife and daughter.</p> <p>14 Q. Because they were up here in</p> <p>15 Massachusetts?</p> <p>16 A. That's correct.</p> <p>17 Q. Was there a reason they had to stay</p> <p>18 up here in Massachusetts?</p> <p>19 A. Yes. My wife holds a tenured</p> <p>20 faculty position on the North Shore of</p> <p>21 Boston.</p> <p>22 Q. Where is that?</p> <p>23 A. Wenham.</p> <p>24 Q. In what school?</p>	<p>Page 22</p> <p>1 A. Gordon College.</p> <p>2 Q. I'm sorry?</p> <p>3 A. Gordon College, G-O-R-D-O-N.</p> <p>4 Q. And how old is your daughter?</p> <p>5 A. She's five now.</p> <p>6 Q. So the end of June 2003, you left</p> <p>7 that employment in New York; is that</p> <p>8 correct?</p> <p>9 A. That's correct.</p> <p>10 Q. When you left there, did you have</p> <p>11 another job?</p> <p>12 A. I was promised a job.</p> <p>13 Q. Where?</p> <p>14 A. At the Office of the Chief Medical</p> <p>15 Examiner in Boston.</p> <p>16 Q. And you already had been promised</p> <p>17 that job before you left your New York</p> <p>18 job?</p> <p>19 A. Yes.</p> <p>20 Q. Who had made that promise to you?</p> <p>21 A. Doctor Richard Evans.</p> <p>22 Q. But you did have to apply for the</p> <p>23 job at the Medical Examiner's Office in</p> <p>24 Boston; is that correct?</p>
<p>Page 23</p> <p>1 A. Yes, I did.</p> <p>2 MS. KELLEY: Could we have</p> <p>3 this marked as Exhibit 2, and then this</p> <p>4 one as Exhibit 3?</p> <p>5 (Exhibit-2, Job Posting</p> <p>6 Bates Stamped AGO-0178 through AGO-0179;</p> <p>7 Exhibit-3, Standard Contract Form and</p> <p>8 Instructions Bates Stamped AGO-0177, marked</p> <p>9 for identification).</p> <p>10 BY MS. KELLEY:</p> <p>11 Q. Doctor Philip, I've just put in</p> <p>12 front of you what's been marked Exhibits 2</p> <p>13 and 3. Do you see those documents?</p> <p>14 A. (Witness viewing document). Yes.</p> <p>15 Q. Referring you to what's been marked</p> <p>16 as Exhibit Number 2, do you know what that</p> <p>17 document is?</p> <p>18 A. This is an advertisement -- a job</p> <p>19 posting on the Massachusetts government Web</p> <p>20 site for a -- assistant medical examiner.</p> <p>21 Q. And is this the posting that you</p> <p>22 responded to in your position as -- in the</p> <p>23 Chief Medical Examiner's Office?</p> <p>24 A. Not exactly. I had a phone</p>	<p>Page 24</p> <p>1 conversation with Doctor Evans, and in</p> <p>2 March -- I'm sorry, April or May, when he</p> <p>3 said, send me a letter and a copy of the</p> <p>4 CV, which I did. This is much later that</p> <p>5 I was told about this application, and I</p> <p>6 did send another formal application.</p> <p>7 Q. Okay. Well, first of all. You</p> <p>8 said you had your conversation with Doctor</p> <p>9 Evans in April or May. Would that have</p> <p>10 been of the year 2003?</p> <p>11 A. 2002 -- 2003, correct.</p> <p>12 Q. Okay. And was that before there</p> <p>13 had been, to your knowledge, any job</p> <p>14 posting?</p> <p>15 A. Yes.</p> <p>16 Q. And you said that he had already</p> <p>17 made you a promise that you would have a</p> <p>18 position --</p> <p>19 A. Yes.</p> <p>20 Q. -- is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Did he advise you that you would</p> <p>23 have a position as a full-time employee or</p> <p>24 was it going to be a contract position?</p>



<p style="text-align: center;">Page 25</p> <p>1 A. He said he had to work on it and 2 look into that, but didn't commit himself 3 to anything. 4 Q. The document that's been marked as 5 Exhibit Number 2 has a date up at the top 6 of August 5, 2003. Do you see that? 7 A. (Witness viewing document). Yes. 8 Q. And it says, "Application deadline: 9 August 15, 2003." Do you see that? 10 A. (Witness viewing document). Yes. 11 Q. By August of 2003, what was the 12 situation of your job position with Doctor 13 Evans? 14 A. I had not heard from Doctor Evans. 15 And on the 6th of August, I had a 16 doctor's appointment, so I swung by the 17 office and this was given to me. And I 18 already had a vitae and a cover letter, 19 which I handed over at the same time. 20 Q. I'm sorry. You said you had a 21 doctor's appointment on August 6, 2003? 22 A. With my primary care physician, 23 yes. 24 Q. Okay. And this document, Exhibit</p>	<p style="text-align: center;">Page 26</p> <p>1 Number 2, was handed to you? 2 A. Yes. 3 Q. By whom? 4 A. Mr. Cronin. 5 Q. So you went into the Office of the 6 Chief Medical Examiner? 7 A. That's correct. 8 Q. Oh, on the same day that you had 9 an appointment with your internist. 10 A. That's correct. 11 Q. Well, when Mr. Cronin handed you 12 this posting, what did you say? 13 A. We had a brief conversation. I 14 gave him my vitae and the cover letter 15 that's attached to Exhibit Number 1, and 16 he said the formalities would be completed 17 soon. 18 Q. Did he advise you whether they were 19 interviewing anybody else for the position? 20 A. He didn't. 21 Q. Did you talk to him at all about 22 whether this was going to be a full-time 23 position or a contract position? 24 A. He said he could only offer me a</p>
<p style="text-align: center;">Page 27</p> <p>1 contract position. 2 Q. When you had left to go to the New 3 York Medical Examiner's Office, would you 4 have stayed here in Boston if they had 5 offered you a full-time position? 6 MR. SHARP: Objection. But 7 go ahead. 8 A. Yes. 9 Q. In fact, you wanted a full-time 10 position. Is that fair to say? 11 A. That's only half the story. 12 Q. What's the rest of the story? 13 A. I also wanted to see a good Medical 14 Examiner's Office. 15 Q. So we're now talking about June 16 2002? 17 A. Yes. 18 Q. So you wanted a full-time position, 19 but you also wanted a better-run office? 20 A. Correct. 21 Q. Did you discuss that with anyone, 22 that you wanted a better-run office before 23 you would consider staying at the Boston 24 Medical Examiner's Office?</p>	<p style="text-align: center;">Page 28</p> <p>1 A. Discuss it with a specific person? 2 Q. Yes. 3 MR. SHARP: When? 4 A. When? 5 Q. Around June of 2002, when you 6 wanted a full-time position, but you also 7 wanted a better-run office, did you 8 discuss that fact with anyone at the 9 Medical Examiner's Office? 10 A. I must have spoken about it to 11 Doctor Chirkov, to Doctor Zane. 12 Q. Did you speak about it to Doctor 13 Evans? 14 A. I never could get to meet him. 15 Q. Around June of 2002, were there, in 16 fact, full-time positions being offered to 17 anybody? 18 A. It's my understanding there were 19 two full-time positions being offered. 20 Q. And who got those positions? 21 A. I believe one was given to Faryl 22 Sandler, but that was after June 2002, 23 after I left. 24 Q. Okay. But sometime in 2002?</p>



<p style="text-align: center;">Page 29</p> <p>1 A. Yes.</p> <p>2 Q. And the second position?</p> <p>3 A. I have no idea.</p> <p>4 Q. Can you describe your relationship</p> <p>5 with Doctor Sandler?</p> <p>6 A. We were just colleagues. We had</p> <p>7 differences of opinion.</p> <p>8 Q. Did you have any resentment towards</p> <p>9 her that she received this full-time</p> <p>10 position and you didn't?</p> <p>11 A. No.</p> <p>12 Q. Okay. Going back to August of</p> <p>13 2003, you said you had a conversation with</p> <p>14 Mr. Cronin about this job posting marked</p> <p>15 as Exhibit Number 2; is that correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Did you read the job posting?</p> <p>18 A. Yes, I did.</p> <p>19 Q. And it's -- Is it in front of you</p> <p>20 right now?</p> <p>21 A. (Witness viewing document). It is</p> <p>22 now.</p> <p>23 Q. Okay. Do you see under the section</p> <p>24 called "Duties" there are several</p>	<p style="text-align: center;">Page 30</p> <p>1 paragraphs? Do you see those?</p> <p>2 A. (Witness viewing document). Yes.</p> <p>3 Q. And the second full paragraph under</p> <p>4 "Duties," can you read the very last</p> <p>5 sentence out loud for the record from that</p> <p>6 paragraph?</p> <p>7 A. "Reviews reports of death received</p> <p>8 from hospitals, police agencies and private</p> <p>9 physicians" --</p> <p>10 Q. I'm sorry, Doctor. Under "Duties,"</p> <p>11 the second full paragraph, which is up</p> <p>12 above that section you were just reading</p> <p>13 from.</p> <p>14 A. "At the discretion of the Chief</p> <p>15 Medical Examiner and Assistant Medical</p> <p>16 Examiner may be" -- something is missing</p> <p>17 -- "administrative duties ranging from such</p> <p>18 functions as teaching assignments,</p> <p>19 statistical and," I assume, "scheduling of</p> <p>20 service activities, managing of autopsy</p> <p>21 services at an OCME facility; up to</p> <p>22 directorship of a regional satellite</p> <p>23 office. Additional compensation will be</p> <p>24 provided within range in line with the</p>
<p style="text-align: center;">Page 31</p> <p>1 level of additional administrative</p> <p>2 responsibilities assigned. This</p> <p>3 compensation will be at" -- "at the</p> <p>4 discretion of the Chief Medical Examiner,</p> <p>5 comma, Assistant Medical, always adhere to</p> <p>6 the highest ethical standards and serve as</p> <p>7 role models for all other OC."</p> <p>8 Q. Did you have an understanding when</p> <p>9 you saw this posting that one of the</p> <p>10 things that was going to be asked of you</p> <p>11 was that you were going to be a role</p> <p>12 model for staff at the Chief Medical</p> <p>13 Examiner's Office?</p> <p>14 MR. SHARP: Objection. Go</p> <p>15 ahead, if you can.</p> <p>16 A. Could you repeat that question?</p> <p>17 MS. KELLEY: Could you read</p> <p>18 that back, please?</p> <p>19 (Record read).</p> <p>20 A. This was not specifically discussed</p> <p>21 at any point in my application process.</p> <p>22 Q. Okay. My question, Doctor, is, you</p> <p>23 saw the posting before your formal</p> <p>24 application; is that correct?</p>	<p style="text-align: center;">Page 32</p> <p>1 A. No.</p> <p>2 Q. You saw the posting before you took</p> <p>3 the position; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. And you understood that this was a</p> <p>6 posting for the position that you were</p> <p>7 going to take; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And I take it you did read Exhibit</p> <p>10 Number 2 before you took the position. Is</p> <p>11 that correct?</p> <p>12 A. Yes.</p> <p>13 Q. So my question again to you is,</p> <p>14 whether at the time you took this position</p> <p>15 you understood that one of the duties</p> <p>16 expected of you was to act as a role</p> <p>17 model for staff at the Chief Medical</p> <p>18 Examiner's Office.</p> <p>19 A. This was the posting. On the same</p> <p>20 day I got the posting I submitted my</p> <p>21 application on August 6th. When I signed</p> <p>22 the contract, there was nothing about a</p> <p>23 role model mentioned in the contract. I</p> <p>24 signed the contract to be a medical</p>



<p style="text-align: center;">Page 33</p> <p>1 examiner, a forensic pathologist. That's</p> <p>2 all.</p> <p>3 Q. So I take it from your answer, your</p> <p>4 answer to my question is, no, you didn't</p> <p>5 understand that to be part of your duties.</p> <p>6 Is that correct?</p> <p>7 A. That's your interpretation.</p> <p>8 Q. Excuse me?</p> <p>9 A. That is your interpretation of it.</p> <p>10 Q. Well, I'll ask it again, Doctor.</p> <p>11 At the time when you took this position,</p> <p>12 is it correct to say that you did not</p> <p>13 consider it one of your duties that you</p> <p>14 act as a role model for other members of</p> <p>15 the staff?</p> <p>16 A. That is correct.</p> <p>17 Q. At the time you took this position,</p> <p>18 was it your understanding that one of your</p> <p>19 duties was to adhere to the highest</p> <p>20 ethical standards?</p> <p>21 A. Yes.</p> <p>22 Q. So you did understand that part of</p> <p>23 the posting --</p> <p>24 A. Yes.</p>	<p style="text-align: center;">Page 34</p> <p>1 Q. -- is that correct?</p> <p>2 MR. SHARP: Objection. Go</p> <p>3 ahead.</p> <p>4 BY MS. KELLEY:</p> <p>5 Q. Yes?</p> <p>6 A. Yes.</p> <p>7 Q. Doctor, how long have you had a</p> <p>8 relationship with your current counsel?</p> <p>9 When did you first retain your current</p> <p>10 counsel's law firm?</p> <p>11 A. October 2003.</p> <p>12 Q. And without revealing any</p> <p>13 attorney/client confidential statements,</p> <p>14 can you describe in very general terms the</p> <p>15 purpose of your retention of the law firm</p> <p>16 at that point?</p> <p>17 MR. SHARP: Objection. Don't</p> <p>18 answer.</p> <p>19 MS. KELLEY: And what's the</p> <p>20 basis for the objection.</p> <p>21 MR. SHARP: Privilege.</p> <p>22 MS. KELLEY: It's not</p> <p>23 privileged when he retained a law firm.</p> <p>24 MR. SHARP: He answered when</p>
<p style="text-align: center;">Page 35</p> <p>1 we were retained.</p> <p>2 MS. KELLEY: And the</p> <p>3 purpose. I think that's going to be at</p> <p>4 issue in this case because of the nature</p> <p>5 of your firm's involvement in 2004.</p> <p>6 MR. SHARP: Fine.</p> <p>7 MS. KELLEY: Okay.</p> <p>8 BY MS. KELLEY:</p> <p>9 Q. Have you ever acted as an expert</p> <p>10 witness for your current law firm?</p> <p>11 A. No.</p> <p>12 Q. Have you ever done any professional</p> <p>13 responsibility things for your current law</p> <p>14 firm?</p> <p>15 A. No.</p> <p>16 Q. With respect to a possible claim</p> <p>17 against the Chief Medical Examiner's</p> <p>18 Office, when did you first retain your</p> <p>19 current law firm?</p> <p>20 A. On the day the suspension notice</p> <p>21 was served on me.</p> <p>22 Q. Was that February 25th of 2003</p> <p>23 [sic]?</p> <p>24 A. I believe so, yes.</p>	<p style="text-align: center;">Page 36</p> <p>1 Q. Doctor, referring you to what's</p> <p>2 been marked as Exhibit Number 3 -- Do you</p> <p>3 still have that document in front of you?</p> <p>4 A. (Witness viewing document). Yes, I</p> <p>5 do.</p> <p>6 Q. Can you describe what that is?</p> <p>7 A. (Witness viewing document). This</p> <p>8 is the standard contract form and</p> <p>9 instructions.</p> <p>10 Q. Was that a contract that you signed</p> <p>11 at the time that you became employed at</p> <p>12 the Medical Examiner's Office in September</p> <p>13 '03?</p> <p>14 A. Yes, it is.</p> <p>15 Q. And what date did you sign that?</p> <p>16 A. The 2nd of September, 2003.</p> <p>17 Q. As of that time, was it your</p> <p>18 understanding that you had a one-year</p> <p>19 contract?</p> <p>20 A. Yes.</p> <p>21 Q. Did you have any discussions with</p> <p>22 anyone at the Medical Examiner's Office</p> <p>23 about whether there were possibilities that</p> <p>24 that contract might be renewed?</p>



10 (Pages 37 to 40)

<p style="text-align: center;">Page 37</p> <p>1 A. It was -- No, I didn't.</p> <p>2 Q. Did you have an understanding one</p> <p>3 way or the other whether that contract</p> <p>4 could be renewed?</p> <p>5 A. I -- The issue did not come up</p> <p>6 because there was still a lot of time for</p> <p>7 the contract to expire.</p> <p>8 Q. So at that point at least, you just</p> <p>9 knew you had one year of employment there.</p> <p>10 A. Yes.</p> <p>11 Q. Can you describe the first few</p> <p>12 months of your employment there, your</p> <p>13 relationship with your supervisors?</p> <p>14 A. My relationship with my supervisors</p> <p>15 was excellent.</p> <p>16 Q. And would this have been Doctor</p> <p>17 Evans?</p> <p>18 A. When he appeared at the office. He</p> <p>19 was very rarely there.</p> <p>20 Q. Is it fair to say during that</p> <p>21 period of time, Doctor Evans was often in</p> <p>22 the Worcester office?</p> <p>23 A. That's correct.</p> <p>24 Q. So you didn't see him very often.</p>	<p style="text-align: center;">Page 38</p> <p>1 A. That's correct.</p> <p>2 Q. So which supervisors were they that</p> <p>3 you had an excellent relationship with?</p> <p>4 A. All the administrators in the</p> <p>5 office.</p> <p>6 Q. And who were those people?</p> <p>7 A. Mr. Cronin, Lieutenant Edith Platt,</p> <p>8 Counsel Jackie Faherty.</p> <p>9 Q. What was Lieutenant Platt's role at</p> <p>10 the Medical Examiner's Office?</p> <p>11 A. She was a senior administrator.</p> <p>12 Q. Did you report to her on anything?</p> <p>13 A. We discussed several things.</p> <p>14 Q. What types of things would you</p> <p>15 discuss with her?</p> <p>16 A. Questions that families asked,</p> <p>17 issues that needed clarification about the</p> <p>18 autopsy report or death certificate or</p> <p>19 something like that.</p> <p>20 Q. What about your relationship with</p> <p>21 your coworkers? During those first</p> <p>22 several months, how would you describe</p> <p>23 your relationship with your coworkers?</p> <p>24 A. It was always good.</p>
<p style="text-align: center;">Page 39</p> <p>1 Q. Always good right up until March of</p> <p>2 '04?</p> <p>3 A. Even after March, I suppose.</p> <p>4 Q. And would that include Doctor</p> <p>5 Sandler?</p> <p>6 A. Yeah.</p> <p>7 Q. Doctor Evangelista?</p> <p>8 A. Yes.</p> <p>9 Q. What about John Cronin? Was your</p> <p>10 relationship with him good right up until</p> <p>11 March of '04?</p> <p>12 A. No, it was not.</p> <p>13 Q. When did your relationship with</p> <p>14 John Cronin start to deteriorate?</p> <p>15 A. I would think early January</p> <p>16 onwards.</p> <p>17 Q. When you say "early January," was</p> <p>18 there an incident or an event that</p> <p>19 happened in early January that you can</p> <p>20 recall?</p> <p>21 A. Yes.</p> <p>22 Q. What was that?</p> <p>23 A. There was a supervisor who asked if</p> <p>24 the autopsy start times could be</p>	<p style="text-align: center;">Page 40</p> <p>1 rescheduled.</p> <p>2 Q. And?</p> <p>3 A. And I e-mailed saying that if we</p> <p>4 could have a meeting and discuss this, it</p> <p>5 might be helpful.</p> <p>6 Q. Who was the supervisor who asked if</p> <p>7 the autopsy start times could be</p> <p>8 rescheduled?</p> <p>9 A. Marcel Garcia.</p> <p>10 Q. And what was -- Strike that.</p> <p>11 When you say the autopsy start</p> <p>12 times could be rescheduled, what do you</p> <p>13 mean by that?</p> <p>14 A. Autopsies start at the Office of</p> <p>15 the Chief Medical Examiner really late,</p> <p>16 sometimes at 11, 11:30, by which time it</p> <p>17 is lunchtime for some of the technicians</p> <p>18 so there was difficulty manning the</p> <p>19 autopsy rooms. And his request was could</p> <p>20 things start between nine and 9:30.</p> <p>21 Q. And you followed up on that with an</p> <p>22 e-mail.</p> <p>23 A. Yes.</p> <p>24 Q. Was that to John Cronin?</p>



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<p style="text-align: center;">Page 41</p> <p>1 A. To everyone in the office.</p> <p>2 Q. And what was the response, if any,</p> <p>3 to your e-mail?</p> <p>4 A. John Cronin asked me what my plan</p> <p>5 was and then forbade me to release it to</p> <p>6 the rest of the office.</p> <p>7 Q. Did he say why?</p> <p>8 A. No.</p> <p>9 Q. Did he indicate any dissatisfaction</p> <p>10 with your e-mail?</p> <p>11 A. Not with my e-mail.</p> <p>12 Q. Well, did he indicate any</p> <p>13 dissatisfaction with the position you were</p> <p>14 taking?</p> <p>15 A. No.</p> <p>16 Q. Why did he forbid you to release</p> <p>17 your plan to the rest of the office?</p> <p>18 MR. SHARP: Objection.</p> <p>19 A. You'll have to ask him.</p> <p>20 MR. SHARP: Objection.</p> <p>21 Answer if you can.</p> <p>22 BY MS. KELLEY:</p> <p>23 Q. He didn't tell you?</p> <p>24 A. No.</p>	<p style="text-align: center;">Page 42</p> <p>1 Q. Was there anything else in that</p> <p>2 discussion with Mr. Cronin that you can</p> <p>3 recall other than that he forbade you to</p> <p>4 release it to the rest of the office?</p> <p>5 A. No.</p> <p>6 Q. He didn't say anything else?</p> <p>7 A. No.</p> <p>8 MS. KELLEY: Can you mark</p> <p>9 that as the next exhibit?</p> <p>10 (Exhibit-4, A Proposal to</p> <p>11 Perpetuate the Legacy of Lieutenant Edith</p> <p>12 Platt, M.S.P., Bates Stamped P-0031 through</p> <p>13 P-0034, marked for identification).</p> <p>14 BY MS. KELLEY:</p> <p>15 Q. Doctor Philip, we just passed a</p> <p>16 document to you that's been marked as</p> <p>17 Exhibit Number 4 to this deposition. Do</p> <p>18 you see that?</p> <p>19 A. (Witness viewing document). Yes.</p> <p>20 Q. What is that?</p> <p>21 A. (Witness viewing document). I was</p> <p>22 trying for a global change in the attitude</p> <p>23 and working of the office and came up with</p> <p>24 a plan where everybody in the office could</p>
<p style="text-align: center;">Page 43</p> <p>1 meet, have a lunch together and discuss</p> <p>2 some common topics. And I developed a</p> <p>3 proposed plan to make this international</p> <p>4 with representatives from all assigned</p> <p>5 nations from various parts of the world</p> <p>6 where we could just have some conversation</p> <p>7 besides dead bodies and funeral homes.</p> <p>8 Q. So you prepared this document?</p> <p>9 A. Yes, I did.</p> <p>10 Q. And it's entitled "A Proposal to</p> <p>11 Perpetuate the Legacy of Lieutenant Edith</p> <p>12 Platt, M.S.P."</p> <p>13 A. Yes.</p> <p>14 Q. Is that correct? What about this</p> <p>15 document is for the purpose of</p> <p>16 perpetuating her legacy?</p> <p>17 A. I had learned that Lieutenant Edith</p> <p>18 Platt had asked for a transfer out of the</p> <p>19 agency at that time, and since she was a</p> <p>20 person who had done quite a bit to try</p> <p>21 and get the various people in the office</p> <p>22 together working and sharing, I thought it</p> <p>23 would be good to perpetuate that</p> <p>24 recollection of her by having these</p>	<p style="text-align: center;">Page 44</p> <p>1 luncheon sessions.</p> <p>2 Q. Okay. Now, you said at the</p> <p>3 beginning you wanted to change the whole</p> <p>4 attitude, I think you said, at the Medical</p> <p>5 Examiner's Office; is that correct?</p> <p>6 A. The -- Yes.</p> <p>7 Q. What was there about the attitude</p> <p>8 that you felt needed to be changed?</p> <p>9 A. I found the morale was very low.</p> <p>10 People were unnecessarily snapping at each</p> <p>11 other. People were not cooperating with</p> <p>12 each other's work. People were not client</p> <p>13 friendly. And all of that needed change.</p> <p>14 Q. So you suggested this sort of</p> <p>15 international luncheon type of --</p> <p>16 A. Yes.</p> <p>17 Q. -- proposal; is that correct? And</p> <p>18 you divided people up into different</p> <p>19 segments according to country; is that</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. Was there any rhyme or reason to</p> <p>23 how you assigned people to particular</p> <p>24 countries?</p>



<p>Page 45</p> <p>1 A. No, just arbitrarily. And I did 2 mention that it could be changed and just 3 suggested -- these were just suggestions. 4 Q. I see Jackie Faherty is listed 5 under Ireland; is that right? 6 A. Yes. 7 Q. Is that because her name is Irish? 8 A. No, I just picked 12 countries. 9 I'm not from Egypt. 10 Q. Okay. And then at the end of this 11 document there's a sheet -- I take it this 12 sheet was attached to the document. 13 People could participate or not if they 14 wanted to. 15 A. Yes. 16 Q. Who did you send this document to? 17 A. I handed it over to Mr. John 18 Cronin. 19 Q. And did he make any response when 20 you handed it to him? 21 A. No. 22 Q. Didn't say anything? 23 A. No. 24 Q. Did you have an understanding he</p>	<p>Page 46</p> <p>1 was going to give it to other people in 2 the department? 3 A. I don't know what he did. 4 Q. Did you try to give it to anyone 5 else? 6 A. No. 7 Q. As far as you know, did anyone ever 8 supply you with a sheet indicating that 9 they voted to participate or not 10 participate? 11 A. No. 12 Q. No one ever did that? 13 A. No. 14 Q. Did you ever have any discussions 15 with any -- anybody in the department 16 after you handed this to John Cronin 17 about -- 18 A. No. 19 Q. -- whether they wanted to 20 participate in this? 21 A. I thought John Cronin would 22 initiate the discussion and pass it 23 around. Never got done. 24 Q. But he didn't say a single word to</p>
<p>Page 47</p> <p>1 you when you gave it to him? 2 A. No. He did exactly what he did 3 with several of my suggestions, picked it 4 up and kept it on the side. 5 MS. KELLEY: Could we have 6 these marked as a single exhibit, Number 7 5? 8 (Exhibit-5, Documents Bates 9 Stamped P-0187 through P-0193, marked for 10 identification). 11 BY MS. KELLEY: 12 Q. Doctor Philip, you now have in 13 front of you what's been marked Exhibit 14 Number 5 to this deposition. Do you see 15 that document? 16 A. (Witness viewing document). Yes. 17 Q. And do you see down at the -- or 18 somewhere on each page there's a Bates 19 stamp that indicates a P and then certain 20 numbers? 21 A. (Witness viewing document). Yes. 22 Q. And it goes from P-187 to P-193. 23 Do you see that? 24 A. (Witness viewing document). Yes.</p>	<p>Page 48</p> <p>1 Q. I'll represent for the record that 2 these were included in the documents that 3 you have recently produced to this office 4 in response to a request for production of 5 documents. As far as you know, is that an 6 accurate statement? 7 A. Yes. 8 Q. And can you describe generally what 9 Exhibit Number 5 consists of? 10 A. (Witness viewing document). 11 Exhibit Number 5 consists of six -- one, 12 two, three, four, five, six -- seven 13 sheets of paper. Some of them are e-mails 14 sent to John Cronin and some of them are 15 an analysis of the workload distribution 16 of cases. 17 Q. First of all, Doctor, the sheet 18 that you're referring to, the workload 19 distribution, that's marked as P-0189; is 20 that correct? 21 A. (Witness viewing document). That's 22 correct. 23 Q. And I'll represent for the record 24 that this was included within the e-mails</p>



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1 in the exact same order that it's been
2 produced here today. Was there some reason
3 that this would have been produced right
4 in the middle of those e-mails?

5 A. That's not accurate. This was not
6 sent as an e-mail, it was handed over to
7 Mr. Cronin.

8 Q. My question, Doctor, is, it was
9 produced to me in this order. Is there
10 some reason that this document was
11 included within those e-mails or is it
12 just an accident that it ended up in the
13 e-mails?

14 A. I'm not the one -- the person to
15 answer that question. You would have to
16 ask whoever produced it to you.

17 Q. Okay. Well, with respect to that
18 document, P-0189, can you describe what
19 that is?

20 A. (Witness viewing document). That
21 shows the number of autopsies and external
22 examinations done by the different doctors.
23 On the top -- the top table is all the
24 cases done between 2000 -- in the year

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1 2002 and 2003. And the second table is
2 from September 1 of 2003, to December
3 31st, 2003.

4 Q. Did you prepare this document?

5 A. Yes, I did.

6 Q. Do you know when you prepared it?

7 A. One of the days before discussions
8 with John Cronin. Sometime in January.

9 Q. Sometime in January of '04?

10 A. Yes.

11 Q. And what was the purpose of your
12 preparing this document?

13 A. To highlight the issue that there
14 was an unequal distribution of workload.

15 Q. Did you consider that some of the
16 medical examiners weren't pulling their
17 fair share?

18 A. Well, that's obvious from the data
19 presented.

20 Q. Well, was that your understanding
21 or your belief?

22 A. That's my analysis of the data.

23 Q. Who did you think wasn't doing
24 enough?

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1 A. Several people.

2 Q. Who?

3 A. Doctor Cannon -- Doctor Sandler did
4 13 percent of the cases compared to 24
5 percent done by me. Doctor Cannon did 10
6 percent. Richard Evans did less than 10
7 percent.

8 Q. Were there any other people that
9 you thought really weren't doing their
10 job?

11 A. The rest seem to be -- I mean, me
12 and Frank Evangelista were doing about 20,
13 25 percent of the cases. Zane did
14 slightly less than 20 percent.

15 Q. Was it your understanding that
16 Richard Evans -- At the point when you
17 created this document, he was still acting
18 as chief medical examiner; is that
19 correct?

20 A. That's correct.

21 Q. So I take it you thought -- Strike
22 that.

23 Did you think it was reasonable
24 that he was doing fewer autopsies than you

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1 and Doctor Evangelista?

2 A. I did.

3 Q. Excuse me? Yes, you did?

4 A. I did.

5 Q. So the only people that weren't
6 really pulling their weight were Faryl
7 Sandler and Marie Cannon; is that correct?

8 A. Yes.

9 Q. Were those the only two full-time
10 female pathologists?

11 A. Yes.

12 Q. And you said that you prepared this
13 in connection with a meeting that you had
14 with John Cronin in January of '04; is
15 that correct?

16 A. That's correct.

17 Q. And who called that meeting?

18 A. I requested the meeting.

19 Q. And what was the purpose of
20 requesting that meeting?

21 A. This tied in with my previous
22 response to Marcel Garcia's e-mail about
23 earlier autopsy times. And I came up with
24 a proposal where both of these could be



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1 corrected; there would be fair distribution
2 as well as the autopsies would start
3 earlier.
4 Q. And what was your plan in that
5 regard?
6 A. It's too long to go over now.
7 Q. Well, what are the general
8 concepts?
9 A. The general concepts are that the
10 cases be assigned by the first doctor who
11 reaches the Medical Examiner's Office and
12 strictly in a sequential manner.
13 Q. How was it being done before that?
14 A. Randomly. And at --
15 Q. Who was doing it?
16 A. It would be done at the morning
17 conference which would start late, and at
18 the end of the conference the cases would
19 be divvied up.
20 Q. And who would do the dividing up?
21 A. Whoever was chairing the conference
22 at that time.
23 Q. Is it fair to say that the person
24 who divided up the cases might take into

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1 account whether some cases were more
2 complex than others?
3 A. An attempt was made to divide the
4 cases equally among all, but some people
5 wouldn't complete their cases because
6 things would get late started. And then
7 they would get back -- they would get
8 thrown over for the next day or be done
9 by somebody else late in the day.
10 Q. And the some people that you're
11 talking about, was that Marie Cannon and
12 Faryl Sandler?
13 A. That's what you're saying.
14 Q. Are those the people you're talking
15 about?
16 A. Yeah.
17 Q. Excuse me?
18 A. That's what the numbers show.
19 Q. Okay. So when you just said there
20 were some people who wouldn't get their
21 cases done, you're referring to Doctors
22 Sandler and Cannon.
23 A. Yes.
24 Q. And Doctor Sandler is the person

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1 who was hired instead of you as a
2 full-time employee; is that correct?
3 A. Not instead of me. She was --
4 Q. She was offered a full-time
5 position which you weren't offered; is
6 that fair to say?
7 A. Because I was not there.
8 Q. Do you know when she was offered
9 the full-time position?
10 A. I don't. It's after I left.
11 Q. What about Doctor Cannon? How long
12 had she been there?
13 A. She was there when I started.
14 Q. When you started the first time?
15 A. In September 2003.
16 Q. Was she there when you left your --
17 after your first contract year?
18 A. No.
19 Q. Did you actually have this
20 discussion with John Cronin in January of
21 '04 --
22 A. Yes.
23 Q. -- about starting -- having
24 starting times different and a different

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1 way of assigning cases?
2 A. Yes.
3 Q. And what did -- What, if anything,
4 did Mr. Cronin say to you during that
5 discussion?
6 A. He listened to me and then said I
7 was not to announce it to the general
8 public.
9 Q. Did he say why?
10 A. No.
11 Q. Did you start to have an
12 understanding at that point in time that
13 he was not terribly appreciative of your
14 efforts to redesign the functioning of the
15 office?
16 A. Soon afterwards, yes.
17 Q. When did you come to that
18 understanding?
19 A. His responses to my several e-mails
20 that I sent out, meetings would be
21 announced and then canceled or postponed.
22 And then when the meetings were held, he
23 wouldn't listen to it, just took whatever
24 I gave him.



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1 Q. And what's the time frame
2 approximately that you're describing?
3 A. Early January to mid January.
4 Q. Of 2004?
5 A. Yeah.
6 Q. And so at some point you felt that
7 he was not being responsive to your
8 requests; is that fair to say?
9 A. Yes.
10 Q. Now, going back to what's been
11 marked as Exhibit Number 5, the first page
12 of that document --
13 A. Yes.
14 Q. -- that's an -- I guess it's just
15 one e-mail from you to John Cronin; is
16 that correct?
17 A. Yes.
18 Q. So these are -- When you were
19 describing before that you were having
20 suggestions for meetings with John Cronin,
21 this is your proposed agenda for one of
22 those meetings.
23 A. Yes.
24 Q. After that first group numbered one

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1 through 12, there's a statement, "You are
2 trapped in a buy-one-get-one-free program.
3 Sit back and enjoy the show." Do you see
4 that?
5 A. (Witness viewing document). Yes.
6 Q. What were you referring to?
7 A. That I had 12 more suggestions.
8 Q. In that second group of 12, Number
9 11, persons and personalities, what was
10 that all about?
11 A. I don't recall exactly, but I must
12 have been talking about some people.
13 Q. Do you remember who?
14 A. No.
15 Q. Okay. And Number 12, "It's time to
16 pay the piper," what were you talking
17 about there?
18 A. I was talking that a chief medical
19 examiner should be at the main office as
20 well as the deputy chief medical examiner
21 who takes over when the chief medical
22 examiner is not there.
23 Q. And then down at the end you say
24 you think it's going to take two hours of

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1 his undivided time to meet with you and
2 discuss these issues.
3 A. Yes.
4 Q. Then you say something about
5 "Remember to evolve your own strategies,
6 to fight with a mind that flits like a
7 butterfly and stings like a bee." Do you
8 see that?
9 A. (Witness viewing document). Yes.
10 Q. Is that you?
11 A. Yes.
12 Q. By the way, down at the bottom of
13 this there's a date, 1/8/2004. Do you see
14 that?
15 A. (Witness viewing document). Yes.
16 Q. There's no date incorporated into
17 the e-mail message itself; is that
18 correct?
19 A. Yes.
20 Q. Did your e-mails at the Medical
21 Examiner's Office not usually incorporate
22 dates?
23 A. They did.
24 Q. They did? But this one doesn't

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1 have one.
2 A. Yes.
3 Q. Why is that?
4 A. I don't know.
5 Q. The date down at the bottom, what
6 does that reflect?
7 A. (Witness viewing document). I
8 guess the date it was printed.
9 Q. That you printed it off?
10 A. This is not my printing, it's
11 something that the office has produced.
12 Q. Well, I'll represent to you this
13 was included within the documents that you
14 produced recently in a response to our
15 request for production of documents. Are
16 you aware of that?
17 A. I'm not sure.
18 Q. Going to the second page, up at the
19 top of this, this is yet another agenda
20 that you're providing to John Cronin for
21 yet another meeting.
22 A. (Witness viewing document). Yes.
23 Q. And this is a meeting that is also
24 going to be occurring sometime in January



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<p style="text-align: center;">Page 61</p> <p>1 of '04; is that correct?</p> <p>2 A. (Witness viewing document). Yes.</p> <p>3 It says here I requested a meeting on the</p> <p>4 30th and then on the 31st, and that I</p> <p>5 hoped to talk to him sometime soon.</p> <p>6 Q. Okay. This listing also has 12 --</p> <p>7 A. Yes.</p> <p>8 Q. -- separate items; is that correct?</p> <p>9 A. (Witness viewing document). Yes.</p> <p>10 Q. But they appear to be different</p> <p>11 items from the ones on the first page; is</p> <p>12 that correct?</p> <p>13 A. (Witness viewing document). Yes.</p> <p>14 Q. And you tell him that you doubt</p> <p>15 that you can fit a discussion of this into</p> <p>16 three-quarters of an hour; is that</p> <p>17 correct?</p> <p>18 A. Correct.</p> <p>19 Q. Number 10 on this sheet, "Bill Zane</p> <p>20 issues," what are those?</p> <p>21 A. Bill Zane gave me a CD on which he</p> <p>22 had been collecting data about workload</p> <p>23 distribution, and I wanted to tell him I</p> <p>24 was planning to do an analysis and produce</p>	<p style="text-align: center;">Page 62</p> <p>1 this next sheet attached here.</p> <p>2 Q. Okay. So this is still having to</p> <p>3 do with the fact that some of the medical</p> <p>4 examiners weren't pulling their weight in</p> <p>5 the office.</p> <p>6 A. Yes.</p> <p>7 Q. Were you suggesting some of these</p> <p>8 people be fired?</p> <p>9 A. No.</p> <p>10 Q. What was your suggestion on how to</p> <p>11 deal with people who couldn't finish an</p> <p>12 equal number of cases for whatever reason?</p> <p>13 A. They had to be formed for a more</p> <p>14 equitable distribution of workload.</p> <p>15 Q. They had to be what for a more --</p> <p>16 A. A more equitable distribution of</p> <p>17 workload.</p> <p>18 Q. What if they couldn't finish their</p> <p>19 cases?</p> <p>20 MR. SHARP: Objection. Go</p> <p>21 ahead, if you can.</p> <p>22 A. It was up to the senior management.</p> <p>23 Q. Did you have any proposal about</p> <p>24 what should happen under those</p>
<p style="text-align: center;">Page 63</p> <p>1 circumstances?</p> <p>2 A. No.</p> <p>3 Q. Okay. Page -- The page after the</p> <p>4 chart, and it's entitled P-0190, do you</p> <p>5 see that page?</p> <p>6 A. (Witness viewing document). Yeah.</p> <p>7 Q. And this document does have a date,</p> <p>8 January 9, 2004; is that correct?</p> <p>9 A. (Witness viewing document). Yes.</p> <p>10 Q. This is another e-mail to John</p> <p>11 Cronin with nine more suggestions about</p> <p>12 things you want to discuss.</p> <p>13 A. Yes.</p> <p>14 Q. And these are new suggestions?</p> <p>15 A. Yes.</p> <p>16 Q. And Number 2, "How do you solve a</p> <p>17 problem like Faria," do you see that?</p> <p>18 A. (Witness viewing document). Yes.</p> <p>19 Q. What is that?</p> <p>20 A. How do you -- I think it was how</p> <p>21 about -- how do we solve the problem of</p> <p>22 keeping Evans far away from the chief --</p> <p>23 from the Office of the Chief Medical</p> <p>24 Examiner, if there could be some sort of</p>	<p style="text-align: center;">Page 64</p> <p>1 reshuffle of the people assigned to the</p> <p>2 office, because I was also trying to</p> <p>3 develop a plan for teaching purposes of</p> <p>4 the residents -- of the people who were</p> <p>5 going to take the boards and we needed to</p> <p>6 see him and he kept canceling the...</p> <p>7 Q. Who's Faria?</p> <p>8 A. Just a name I came up with.</p> <p>9 Q. Oh, but you meant to refer to</p> <p>10 Doctor Evans?</p> <p>11 A. Yes.</p> <p>12 Q. Now, the next page, P-0191, do you</p> <p>13 see that?</p> <p>14 A. (Witness viewing document). Yes.</p> <p>15 Q. Up at the top of that, there's</p> <p>16 another e-mail from you to John Cronin</p> <p>17 dated January 14th; is that correct?</p> <p>18 A. (Witness viewing document). Yes.</p> <p>19 Q. And you're asking him when are we</p> <p>20 going to have the meeting about those</p> <p>21 other things that I talked to you about --</p> <p>22 A. Correct.</p> <p>23 Q. -- is that fair to say? Do you</p> <p>24 know whether you ever had a meeting about</p>



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1 those -- the first 12 and the second 12
2 and the next five that are listed below in
3 this e-mail?

4 A. We had one meeting which got
5 interrupted by a phone call from someone
6 downtown, he said, and the meeting got
7 canceled. Then he had another meeting at
8 which his attitude was "Okay, just give me
9 what you want to give and get out of my
10 office."

11 MS. KELLEY: Could we have
12 this marked as the next exhibit?

13 (Exhibit-6, Agenda Dated
14 1/16/04, Bates Stamped P-0194 through
15 P-0197, marked for identification).

16 BY MS. KELLEY:

17 Q. Doctor Philip, with respect to
18 what's been put in front of you as Exhibit
19 Number 6, do you recognize that several
20 pages of documents?

21 A. (Witness viewing document). Yes, I
22 do.

23 Q. And what are they?

24 A. These were maybe either first

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1 drafts or actual printouts of these
2 e-mails that were being sent.

3 Q. So these tie into the e-mails --

4 A. The same e-mail additions that I
5 made, yes.

6 Q. And did you print these out for the
7 purpose of having a sheet to --

8 A. To go over when we were talking,
9 yes.

10 Q. Okay.

11 MS. KELLEY: Could you
12 please mark this as the next exhibit?

13 (Exhibit-7, Agenda, July 12,
14 2001, Bates Stamped P-0201 through P-0202,
15 marked for identification).

16 BY MS. KELLEY:

17 Q. Doctor Philip, with respect to
18 what's been marked Exhibit Number 7, do
19 you have that document in front of you
20 now?

21 A. (Witness viewing document). Yes.

22 Q. What is that?

23 A. (Witness viewing document). This
24 was an agenda item that Doctor Evans asked

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1 me to prepare for a discussion with then
2 Under Secretary Mr. Bolden or his
3 representative who was heading the office
4 at that time. I believe it's Deb
5 Reynolds, but I could be mistaken. She
6 was some Debbie. Deb Reynolds.

7 Q. Now, this is dated July 12, 2001;
8 is that correct?

9 A. (Witness viewing document). That's
10 correct.

11 Q. Hadn't -- Strike that.

12 This was after your one-year
13 fellowship ended; is that correct?

14 A. Yes.

15 Q. But during your first contract year
16 with the Medical Examiner's Office.

17 A. That's correct.

18 Q. And Doctor Evans came to you and
19 requested that you do up an agenda?

20 A. Yes.

21 Q. Was it your understanding that he
22 was going to be meeting with Under
23 Secretary Bolden?

24 A. It was Doctor Evans, Deb Reynolds

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1 and the other doctors.

2 Q. Which other doctors?

3 A. James Weiner, William Zane, Faryl
4 Sandler and Doctor Philip.

5 Q. You, yourself?

6 A. Yes.

7 Q. Okay. You were all going to be
8 meeting with Mr. Bolden?

9 A. Mr. Bolden or Deb Reynolds.

10 Q. Oh, I'm sorry.

11 A. Yeah.

12 Q. And do you know who had called the
13 meeting?

14 A. I think it was Deb Reynolds.

15 Q. What was her position?

16 A. She was -- I believe she was sent
17 from the EOPS to head the agency.

18 Q. To head the medical --

19 A. Yeah, as the person in charge of
20 the Medical Examiner's Office.

21 Q. Was she a physician?

22 A. No.

23 Q. So she would be in the nature of
24 an administrative officer?



<p style="text-align: center;">Page 69</p> <p>1 A. Yes.</p> <p>2 Q. And as of July 12, 2001, was she</p> <p>3 already in that role?</p> <p>4 A. Yes.</p> <p>5 Q. And, I'm sorry, you said she had</p> <p>6 actually called this meeting; is that</p> <p>7 correct?</p> <p>8 A. That's correct.</p> <p>9 Q. And what was the purpose of the</p> <p>10 meeting?</p> <p>11 A. To discuss issues that doctors had</p> <p>12 with the functioning of the office.</p> <p>13 Q. And when Doctor Evans talked to</p> <p>14 you, did he request that you draw up an</p> <p>15 agenda?</p> <p>16 A. Yes.</p> <p>17 Q. And did he tell you what needed to</p> <p>18 be in the agenda?</p> <p>19 A. Yes.</p> <p>20 Q. What did he tell you about that?</p> <p>21 A. He said the topics and who will</p> <p>22 deal with the -- with the issue or make a</p> <p>23 presentation about the issue.</p> <p>24 Q. Did he actually provide these</p>	<p style="text-align: center;">Page 70</p> <p>1 topics like Item Number 1, continuous</p> <p>2 quality improvement program? Did he tell</p> <p>3 you that was one of the topics?</p> <p>4 A. Yeah. He said I could speak about</p> <p>5 -- I had spoken to him previously about it</p> <p>6 and he said I could speak at that meeting</p> <p>7 about it to Mr. Bolden or Ms. Reynolds.</p> <p>8 Q. What about Item Number 2? Did</p> <p>9 Doctor Evans specifically mention that that</p> <p>10 item should be on the agenda?</p> <p>11 A. Yes. And Doctor -- he said Doctor</p> <p>12 Sandler would talk about it.</p> <p>13 Q. What about Item Number 3, improving</p> <p>14 telemedicine utilization?</p> <p>15 A. That -- He said he wanted it on</p> <p>16 the discussion and he would talk about it.</p> <p>17 Q. And Item 4, rationalization of</p> <p>18 specimen storage, did he also ask that</p> <p>19 that be included?</p> <p>20 A. Yes.</p> <p>21 Q. And with respect to Page 2 of this</p> <p>22 document, you've got a further outline --</p> <p>23 A. Yeah. This --</p> <p>24 Q. -- of Item Number 1.</p>
<p style="text-align: center;">Page 71</p> <p>1 A. These were the topics that I would</p> <p>2 discuss as my part of the discussion.</p> <p>3 Q. Okay. In addition to providing you</p> <p>4 with the general topics that were going to</p> <p>5 be included within the agenda, did Doctor</p> <p>6 Evans have any discussions with you about</p> <p>7 any concerns that he had about the agency?</p> <p>8 A. About the agency?</p> <p>9 Q. About the Medical Examiner's</p> <p>10 Office.</p> <p>11 A. No.</p> <p>12 Q. Did you have any understanding one</p> <p>13 way or the other that he had any concerns</p> <p>14 as of July 12, 2001, about the running of</p> <p>15 the Medical Examiner's Office?</p> <p>16 A. I'm sure he would have had -- had</p> <p>17 concerns about the medical examiners</p> <p>18 because we were getting a lot of bad</p> <p>19 press. There were several horrific</p> <p>20 incidents in the office. But he was not</p> <p>21 the type who would discuss those with me.</p> <p>22 Q. Around the time that this agenda</p> <p>23 was being prepared in July of 2001, did</p> <p>24 you have any discussions with anybody at</p>	<p style="text-align: center;">Page 72</p> <p>1 the Medical Examiner's Office about the</p> <p>2 lack of funding for the office?</p> <p>3 A. Generating the funds, I didn't feel</p> <p>4 was my responsibility to do it. I knew</p> <p>5 the administrators were working on it and</p> <p>6 Doctor Evans probably was in the know of</p> <p>7 it. I might have -- I did suggest what</p> <p>8 we would need from the EOPS to maintain a</p> <p>9 continuous quality improvement program and</p> <p>10 the time and the manpower requirements. I</p> <p>11 didn't put it in dollar figures.</p> <p>12 Q. Okay. Well, apart from actually</p> <p>13 going out to obtain the money, did you</p> <p>14 have any discussions with anybody at the</p> <p>15 office about the fact that the office was</p> <p>16 underfunded?</p> <p>17 A. We were constantly talking about</p> <p>18 it. Mr. Bolden himself admitted at the</p> <p>19 meeting that he called that there are</p> <p>20 problems and some of it has to deal with</p> <p>21 money, and then he was going to fix it.</p> <p>22 Q. Now, you started to say a minute</p> <p>23 ago you had some proposals about things</p> <p>24 the office would need even though you</p>



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1 didn't put dollar amounts on it.
 2 A. The office would need to run a
 3 continuous quality improvement program,
 4 yes.
 5 Q. Did you have any suggestions for
 6 what that would include that might, in
 7 fact, end up costing more money?
 8 A. No. I was going to put it up to
 9 Mr. Bolden and then hope he would come up
 10 with -- Mr. Bolden or Deb Reynolds, on how
 11 it could be funded and managed.
 12 Q. Well, did you propose any
 13 additional staff, for instance, that would
 14 need to be hired?
 15 A. Yes, I did.
 16 Q. What were your suggestions in that
 17 regard?
 18 A. We'd need a secretary and we'd need
 19 a statistician.
 20 Q. Anybody else?
 21 A. And a physician.
 22 Q. An additional pathologist?
 23 A. No, one of the physicians could be
 24 assigned to that task.

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1 Q. Did you feel that you needed any
 2 more pathologists in the office?
 3 A. Again, I was not the person to make
 4 those decisions.
 5 Q. Is there any indication on Page 2
 6 of what's been marked as Exhibit Number 7
 7 as to the additional staffing that you
 8 would recommend?
 9 A. (Witness viewing document). No. I
 10 said I need a secretary who can do data
 11 entry, Access/Excel and PowerPoint,
 12 dedicated time for a physician supervisor
 13 of the program, dedicated space for the
 14 program implementation, dedicated time for
 15 a conference on these topics and budgetary
 16 allocation for required items.
 17 Q. And after this agenda was drawn up,
 18 did this meeting actually take place?
 19 A. Yes.
 20 Q. And Mr. Bolden was at the meeting?
 21 A. Deb Reynolds was at the meeting.
 22 Q. Was Mr. Bolden there?
 23 A. No.
 24 Q. Was Doctor Evans there?

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1 A. Yes.
 2 Q. And can you describe generally what
 3 was discussed at the meeting?
 4 A. These various topics were
 5 discussed, topics as outlined over here.
 6 Q. Specifically with respect to
 7 continuous quality improvement program, can
 8 you describe what was discussed about
 9 that?
 10 A. I went over these points, why it
 11 was essential, how it works in industry,
 12 how it works in hospital and some of the
 13 indicators that could be used to monitor
 14 the program, and then we could come up
 15 with steps on how they can be monitoring
 16 and improvements can be made.
 17 Q. Was there any discussion at this
 18 meeting about the amount of toxicological
 19 screening that was done by the office?
 20 A. No. The discussion was done about
 21 turnaround times of toxicology reports, not
 22 amount of screening that was done.
 23 Q. Was there any discussion at this
 24 meeting about the number of autopsies

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1 performed by the office?
 2 A. Not at that meeting, no.
 3 Q. In connection with your continuous
 4 quality improvement program where you were
 5 making certain suggestions about staffing,
 6 was one of your suggestions that this
 7 additional staff might free up pathologists
 8 to be able to do more work?
 9 A. I don't think I raised that point.
 10 Q. Was there any discussion at all
 11 about the fact that the office wasn't able
 12 to do the amount of work that it could do
 13 if it had more staff or more funding?
 14 A. I don't recall the complete
 15 discussions.
 16 Q. Well, do you recall whether that
 17 was discussed?
 18 A. I don't think so.
 19 Q. Okay. You said a few minutes ago
 20 that at some point Bolden stated that he
 21 would try to get more funding for the
 22 office; is that correct?
 23 A. Yes.
 24 Q. When did that happen?



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1 A. That happened after the -- after a
2 meeting he held when there was a complete
3 lockdown at the agency after one employee
4 threatened to kill a doctor.
5 Q. When did that happen?
6 A. Mid March 2001.
7 Q. And that incident, who was the
8 employee who threatened to kill a doctor?
9 A. From whatever has been reported to
10 me, it was Rocky -- he was called Rocky.
11 Q. What was his position?
12 A. He was the technical supervisor.
13 Some -- Brendan Tillman, something like
14 that. I don't recall the full spelling of
15 his name.
16 Q. Okay.
17 A. But he was called Rocky.
18 Q. Okay. And who did he threaten to
19 kill?
20 A. Doctor Zane.
21 Q. Do you know the reason?
22 A. It should be in the records of the
23 Medical Examiner's Office.
24 Q. What did you hear?

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1 A. That there was some pushing and
2 shoving, and soon afterwards it seems
3 Rocky made this threat.
4 Q. And there was a shutdown of the
5 whole office?
6 A. Yes.
7 Q. And as a result of that incident,
8 you said Mr. Bolden said that he would try
9 to get additional funding for the Medical
10 Examiner's Office?
11 A. He was going to fix the office and
12 all its problems.
13 Q. How did you get this information
14 that Mr. Bolden said this?
15 A. I was at the meeting.
16 Q. Oh, okay. So when Mr. Bolden said
17 he was going to fix the office and its
18 problems, did he describe what those
19 problems were or was -- Strike that.
20 When Mr. Bolden made this statement
21 at the meeting, was there any discussion
22 about what the problems at the office
23 were?
24 A. He identified several problems. I

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1 was not taking notes.
2 Q. Do you recall any of them?
3 A. Partly finances. Partly
4 leadership. Partly work attitude, morale,
5 temperament.
6 Q. What did he say about leadership
7 problems?
8 A. There is shortage of people and
9 there is shortage of leadership.
10 Q. A shortage of leadership and also a
11 shortage of staff?
12 A. Yes.
13 Q. Did he tie that into funding?
14 A. Also, yes.
15 Q. Did he indicate what additional
16 staff he thought was necessary to avoid
17 these problems?
18 A. No. He -- he was going to review
19 the entire situation.
20 Q. Did he discuss what things he could
21 accomplish by obtaining more money for the
22 agency -- for the office?
23 A. It was just a brief meeting that he
24 was telling us that EOPS is going to work

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1 wonders in the agency, but he didn't
2 outline specific details.
3 Q. Was Doctor Evans at this meeting?
4 A. Yes, he was.
5 Q. Was there any follow-up to this
6 meeting?
7 A. Not that I have seen.
8 Q. Did you ever hear anything else
9 that Mr. Bolden said about the Office of
10 the Medical Examiner?
11 A. No.
12 Q. How long was Mr. Bolden in that
13 position?
14 A. I don't know.
15 Q. Was he replaced at some point?
16 A. I don't know.
17 Q. So at least as far as you know,
18 there was never any follow-up to the
19 statements that he made at this meeting;
20 is that correct?
21 A. That's correct.
22 MS. KELLEY: Could we have
23 this marked as the next exhibit, please?
24 .



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<p style="text-align: center;">Page 81</p> <p>1 (Exhibit-8, Document Bates 2 Stamped AGO-0157 through AGO-0160, marked 3 for identification). 4 BY MS. KELLEY: 5 Q. Doctor Philip, have you had an 6 opportunity to review what's been placed 7 before you as Exhibit 8 to this 8 deposition? 9 A. (Witness viewing document). Yes. 10 Q. Can you describe what that is? 11 A. (Witness viewing document). This 12 is a memorandum that I sent out to the 13 doctors and senior administrators in the 14 office. 15 Q. And the top page of this is your 16 e-mail; is that correct? 17 A. (Witness viewing document). Yes. 18 Q. And then the next three pages are 19 the memorandum? 20 A. Yes. 21 Q. When was the memorandum prepared by 22 you? 23 A. Probably mid January -- no, mid 24 February.</p>	<p style="text-align: center;">Page 82</p> <p>1 Q. Of 2004? 2 A. 2004. 3 Q. And this involved an incident at 4 the very end of January of 2004? 5 A. That's correct. 6 Q. What was your purpose in producing 7 this memo in mid February? 8 A. This was a matter of serious 9 concern to me and had -- I was inviting a 10 discussion among the doctors and people 11 responsible. 12 Q. Well, first of all, you don't send 13 it out to the other doctors 'til, 14 according to this e-mail, March 2nd of 15 '04, right? 16 A. (Witness viewing document). Oh, 17 yes. Sorry. It was sent out on March 18 2nd, not mid February. 19 Q. Well -- 20 A. It was prepared and sent out on 21 March 2nd. 22 Q. So you didn't prepare this memo 23 until March 2nd? 24 A. That's correct.</p>
<p style="text-align: center;">Page 83</p> <p>1 Q. So more than a month after this 2 happened, you suddenly prepared a memo and 3 sent it to everybody. 4 A. That's correct. 5 Q. Did you have any notes or anything 6 that you used to prepare this memo? 7 A. The notes were in the medical 8 records of this case maintained at the 9 office. 10 Q. Why didn't you prepare it in late 11 January or during February? 12 A. Because the -- the medical records 13 of this case were not received at the 14 office. I prepared it as soon as I 15 received the medical records from the 16 hospital. 17 MS. KELLEY: And for the 18 record, I'll just state that we are 19 producing -- or attaching to this -- we're 20 attaching this exhibit to the deposition 21 in the form that the name of the deceased 22 person has been redacted. 23 BY MS. KELLEY: 24 Q. But you do recognize the memo</p>	<p style="text-align: center;">Page 84</p> <p>1 otherwise, Doctor? 2 A. (Witness viewing document). Yes. 3 Q. This particular case -- And I guess 4 for purposes of this deposition why don't 5 we refer to this as the Patient X case? 6 Is that all right with you? 7 A. Yeah. 8 Q. How did you first become aware of 9 the Patient X case? 10 A. I was called by Tracy Aurigemma, 11 the person on the front desk, about this 12 case. I was told about this case by her 13 around the time I was leaving from the 14 office. 15 Q. What did she say to you? 16 A. That there was a case that was -- 17 had not died, but the New England Organ 18 Bank would be calling me about it. 19 Q. Did she say why the New England 20 Organ Bank would be calling you? 21 A. Because they call the Medical 22 Examiner's Office for permission for organ 23 harvest. 24 Q. Where was Patient X located at that</p>



<p style="text-align: center;">Page 85</p> <p>1 time?</p> <p>2 A. I believe it's Beth Israel</p> <p>3 Hospital.</p> <p>4 Q. And what was the normal procedure</p> <p>5 in a case where a patient was not dead,</p> <p>6 but somebody from the Medical Examiner's</p> <p>7 Office was being contacted by the New</p> <p>8 England Organ Bank?</p> <p>9 A. They alert the office that there is</p> <p>10 a potential organ donor case and then</p> <p>11 inform the -- inform the office about the</p> <p>12 case, sort of take a preemptive approval.</p> <p>13 Q. What do you mean by "preemptive</p> <p>14 approval"?</p> <p>15 A. They anticipate.</p> <p>16 Q. And, Doctor, can I ask you to</p> <p>17 describe when you say "they," who are you</p> <p>18 talking about? Can you describe --</p> <p>19 A. The organ harvest is a very</p> <p>20 planned, orchestrated procedure which</p> <p>21 involves a harvest team and a transplant</p> <p>22 team. And the patient is on a life</p> <p>23 support system and the organ bank apprises</p> <p>24 the Medical Examiner's Office of the</p>	<p style="text-align: center;">Page 86</p> <p>1 situation and indicates that a harvest is</p> <p>2 going to be done.</p> <p>3 Q. And if that occurs, what does the</p> <p>4 Medical Examiner's Office do?</p> <p>5 A. The Medical Examiner's Office</p> <p>6 evaluates the details of the case,</p> <p>7 recommends consent of the District</p> <p>8 Attorney, if required, and also whether</p> <p>9 they could go ahead with the procedure or</p> <p>10 not.</p> <p>11 Q. So it's your understanding that at</p> <p>12 least as of 2004, it was necessary before</p> <p>13 there could be recovery of any organs that</p> <p>14 someone from the Medical Examiner's Office</p> <p>15 had to sign off.</p> <p>16 A. Or give oral consent, yes.</p> <p>17 Q. And was it your understanding that</p> <p>18 that was what was occurring with respect</p> <p>19 to Patient X in late January of '04?</p> <p>20 A. Yes.</p> <p>21 Q. So when Tracy talked to you, what</p> <p>22 was your understanding of the patient's</p> <p>23 condition?</p> <p>24 A. She hinted that it was not one of</p>
<p style="text-align: center;">Page 87</p> <p>1 the routine brain-dead cases, there were</p> <p>2 some -- some other issues that were</p> <p>3 involved.</p> <p>4 Q. What do you mean "hinted"?</p> <p>5 A. She couldn't give me the full</p> <p>6 details, but this would be a different</p> <p>7 procedure, she said.</p> <p>8 Q. Did she use that word, different</p> <p>9 procedure?</p> <p>10 A. Yes.</p> <p>11 Q. Well, first of all, I take it there</p> <p>12 are several different types of cases that</p> <p>13 come into the Medical Examiner's Office</p> <p>14 with respect to the recovery of organs.</p> <p>15 Is that fair to say?</p> <p>16 A. Yes.</p> <p>17 Q. And in some of those instances, you</p> <p>18 have what is referred to as a brain-dead</p> <p>19 person; is that correct?</p> <p>20 A. Correct.</p> <p>21 Q. And in other cases, you have a</p> <p>22 person whose heart has stopped beating and</p> <p>23 they are technically dead; is that</p> <p>24 correct?</p>	<p style="text-align: center;">Page 88</p> <p>1 A. This was the first case of that</p> <p>2 sort that came to the Medical Examiner's</p> <p>3 Office.</p> <p>4 Q. That you were aware of?</p> <p>5 A. Correct.</p> <p>6 Q. Are you able to say that there had</p> <p>7 never been any other cases like that,</p> <p>8 Doctor?</p> <p>9 A. I'm not able to say that.</p> <p>10 Q. The first one you knew of?</p> <p>11 A. The first one I was asked to give</p> <p>12 permission for.</p> <p>13 Q. I'm going to ask you again to tell</p> <p>14 me as precisely as you can exactly what</p> <p>15 words Tracy used which she talked to you.</p> <p>16 A. I think precisely something like</p> <p>17 this. They were not following the usual</p> <p>18 protocol, which are the words I put down</p> <p>19 into my memo.</p> <p>20 Q. Well, first of all, start at the</p> <p>21 beginning. What did Tracy say to you as</p> <p>22 you were about to leave the office?</p> <p>23 A. There is likely to be an organ</p> <p>24 harvest.</p>



<p style="text-align: center;">Page 89</p> <p>1 Q. Did she say where that was going to 2 occur? 3 A. Yes. 4 Q. Did she say Beth Israel Hospital? 5 A. I don't recall. 6 Q. Okay. But did she tell you there 7 was a patient at a hospital somewhere in 8 Boston? 9 A. Yes. 10 Q. Without giving the name on the 11 record, did she tell you the name of the 12 patient? 13 A. Yes. 14 Q. Did she give you any indication of 15 how the patient had become injured or why 16 he was near death? 17 A. She said it was a vehicular 18 accident, yes. 19 Q. What else did she say? 20 A. That's about it. 21 Q. Well, at this point, all you've 22 said is Tracy told you there is likely to 23 be an organ harvest, it involved a patient 24 at a hospital in Boston, she gave you the</p>	<p style="text-align: center;">Page 90</p> <p>1 name of the patient and said that he had 2 been involved in a vehicular accident. 3 What else did she say? 4 A. And he was not brain dead, but they 5 were following -- they were not following 6 the usual protocol. 7 Q. He was not brain dead, but who was 8 not following the usual protocol? 9 A. The hospital and the organ harvest 10 -- the organize harvest people, New 11 England Organ Bank. 12 Q. So the hospital or the organ bank 13 were not following the usual protocol? 14 A. Right. He would not be pronounced 15 brain dead, but it would be some other 16 protocol. 17 Q. Did she say what the other protocol 18 was? 19 A. No. She didn't have any details. 20 Q. And did she tell you that you were 21 supposed to contact someone? 22 A. No, they would be in touch with me. 23 Q. You said you were just leaving the 24 office for the evening; is that correct?</p>
<p style="text-align: center;">Page 91</p> <p>1 A. Yes. 2 Q. How were these people going to be 3 in touch with you? 4 A. I was on call that night and they 5 would page me and I would call back, or 6 they would call me at home. 7 Q. And what happened next with respect 8 to Patient X, from your perspective? 9 A. Around 11 o'clock, I received a 10 phone call from Larry from the New England 11 Organ Bank. 12 Q. Do you know his last name? 13 A. No. 14 Q. Do you know what his position was? 15 A. No. 16 Q. Or what role he appeared to you to 17 be filling? 18 A. He was some coordinator. 19 Q. And what did he say to you? 20 A. He said they were going to do an 21 organ harvest on a motor vehicle accident 22 victim. 23 Q. Did he use those terms or did he 24 say --</p>	<p style="text-align: center;">Page 92</p> <p>1 A. I think so. 2 Q. -- organ recovery? 3 A. I think it was harvest. 4 Q. Okay. So to your memory at least, 5 he said they were going to do an organ 6 harvest on what? 7 A. On a motor vehicle accident victim. 8 Q. Did he say anything else? 9 A. So I said, "Is the deceased brain 10 dead?" 11 Q. Did he respond to that? 12 A. He said that they were going to 13 induce asystole. 14 Q. And did you have any understanding 15 what that meant? 16 A. Asystole means stoppage of the 17 heart beating. 18 Q. And Larry told you they were going 19 to induce that? 20 A. Yes. 21 Q. Did he say how they were going to 22 induce it? 23 A. Yes. 24 Q. How?</p>



<p style="text-align: center;">Page 93</p> <p>1 A. They were going to stop mannitol. 2 Q. I'm sorry. Stop what? 3 A. Mannitol, M-A-N-N-I-T-O-L. 4 Q. And? 5 A. Stoppage of mannitol causes brain 6 swelling. Subsequently, it causes the 7 heart to stop. 8 Q. And did he say anything else before 9 you responded? 10 A. That's what my recollection of the 11 episode is. 12 Q. Okay. And did you make any 13 response to that? 14 A. I said that the procedure was 15 highly irregular. 16 Q. Did you say anything else? 17 A. I said I had not heard of this 18 criteria of asystole for pronouncement of 19 death. 20 Q. Did you say anything else? 21 A. I asked him why the routine 22 protocol of brain dead could not be 23 applied. 24 Q. Did he respond?</p>	<p style="text-align: center;">Page 94</p> <p>1 A. He responded that the body then 2 would be in permanent vegetative state and 3 delay the harvest. 4 Q. And again, it's your memory he used 5 the word "harvest"? 6 A. Yes. 7 Q. Okay. At any point during this 8 conversation, did Larry ask you to do 9 something? 10 A. I don't understand your question. 11 Q. Did he ask you, as the 12 representative of the Medical Examiner's 13 Office, to sign off on the recovery of any 14 organs? 15 A. That was the purpose of the phone 16 call. 17 Q. Okay. So I take it at some point 18 in this call, he mentioned that to you. 19 A. Yes. 20 Q. Did you make any response to that? 21 A. I did. 22 Q. What was your response? 23 A. That I was not comfortable with the 24 procedure as described.</p>
<p style="text-align: center;">Page 95</p> <p>1 Q. Did you say anything else? 2 A. No. To that, no. 3 Q. Well, did you say one way or the 4 other whether you would sign off on the 5 recovery of organs from Patient X? 6 A. To which Larry responded that it 7 had been cleared by Jackie Faherty and 8 Richard Evans. 9 Q. Okay. Why don't you just describe 10 now, Doctor, as much as you can recall 11 about how the conversation went from that 12 point? 13 A. I explained that Jackie Faherty was 14 on maternity leave and I couldn't contact 15 her at that point, and I told Larry he 16 was welcome to contact Richard Evans. 17 Q. But according to you, Larry had 18 just told you it had already been cleared 19 by those two people. 20 A. Such a protocol had been cleared by 21 these people, not this case. 22 Q. Oh, okay. So you said Larry was 23 welcome to contact Doctor Evans; is that 24 correct?</p>	<p style="text-align: center;">Page 96</p> <p>1 A. That's correct. 2 Q. Did you indicate that you were not 3 willing to sign off on this? 4 A. Obviously. 5 Q. Excuse me? 6 A. Obviously. 7 Q. Well, unfortunately for the record, 8 we have to express; even if you believe 9 it's something that might be obvious you 10 still have to say it. 11 So I take it you told Larry during 12 this phone conversation that you were not 13 willing to sign off on the recovery of any 14 organs. 15 A. That's correct. 16 Q. Do you recall anything else that 17 was said by you or by Larry during that 18 conversation? 19 A. No. 20 Q. What's the next thing that you 21 heard with respect to Patient X? 22 A. Later that night, I got a message 23 from Tracy that apparently Richard Evans 24 had approved the harvest.</p>



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1 Q. You didn't actually talk to Tracy,
2 you just got a message?
3 A. I spoke to Tracy and she told me.
4 Q. Oh, you got a message from Tracy to
5 call her?
6 A. No, she called me at home and told
7 me.
8 Q. Oh, okay. Okay. You said you got
9 a message from Tracy, but you mean she
10 actually called you and spoke to you.
11 A. Yes. She called me.
12 Q. Okay.
13 A. I was the doctor on call so she
14 called me.
15 Q. Okay. And she said that Doctor
16 Evans had approved the harvest?
17 A. Yes.
18 Q. Did she say anything else in that
19 conversation?
20 A. No.
21 Q. Did you say anything?
22 A. Not at that point.
23 Q. Other than hello and good-bye.
24 A. Yes.

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1 Q. What's the next thing that you can
2 recall with respect to Patient X?
3 A. I brought this case up at the next
4 morning's morning conference.
5 Q. Was Doctor Evans present?
6 A. No.
7 Q. Who was present?
8 A. All the other doctors on staff at
9 the OCME, several administrators, front
10 desk personnel, police.
11 Q. Was John Cronin there?
12 A. I don't recall.
13 Q. And do you recall anything that was
14 said by anybody at that meeting?
15 A. Nobody made any comments about the
16 situation.
17 Q. Well, first of all, you -- at the
18 meeting you stood up and described
19 everything that had happened to the best
20 of your knowledge?
21 A. Yes.
22 Q. About how long did it take you to
23 describe this case?
24 A. Five or ten minutes.

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1 Q. So you stood up and addressed this
2 group for five or ten minutes; is that
3 right?
4 A. It's not stood up. We all sit
5 around a table and discuss.
6 Q. You sat at a table --
7 A. And discussed.
8 Q. -- and addressed the group for five
9 or ten minutes; is that correct?
10 A. We discussed all the cases that
11 came in last night and discussed the
12 issues that we need to talk about, and I
13 discussed this case.
14 Q. You discussed this case with the
15 group for five or ten minutes; is that
16 correct?
17 A. Correct.
18 Q. And when you were done describing
19 what had happened, no one said a word?
20 A. That's correct.
21 Q. Did anyone in the room say anything
22 about the protocol, about the asystole?
23 A. No.
24 Q. Did you think that was strange that

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1 no one even responded to your meeting?
2 A. No. That's the kind of bunch of
3 people we have at the Medical Examiner's
4 Office.
5 Q. Since that time, have you ever had
6 any discussions with anybody at the
7 Medical Examiner's Office about that
8 particular protocol, the asystole protocol?
9 A. No, I have not.
10 Q. Since this case came up, have you
11 done research or spoken with any other
12 physicians regarding the asystole protocol?
13 A. I have done some research.
14 Q. What research did you conduct?
15 A. I found several articles.
16 Q. And those were articles that you
17 submitted in connection with your document
18 response?
19 A. Perhaps. Not sure.
20 Q. Doctor, one article that you
21 submitted in connection with your document
22 response is an article entitled "Donation
23 After Cardiac Death, the University of
24 Wisconsin Experience with Renal



26 (Pages 101 to 104)

<p style="text-align: center;">Page 101</p> <p>1 Transplantation." Do you recall that 2 article? 3 A. Is that an article or an abstract? 4 I'd like to check that. 5 Q. It may be an abstract. It's 6 prepared apparently by J.T. Cooper and 7 others. 8 A. I can't comment until you show it 9 to me. 10 Q. Okay. 11 MR. SHARP: Let's just go 12 off a second. 13 (Recess taken). 14 BY MS. KELLEY: 15 Q. So we were just off the record, 16 Doctor, and you were reviewing some of the 17 papers that you've produced. And there is 18 an abstract, as I understand it, entitled 19 "Donation After Cardiac Death, the 20 University of Wisconsin Experience with 21 Renal Transplantation;" is that correct? 22 A. That's correct. 23 Q. And that's part of the research you 24 conducted?</p>	<p style="text-align: center;">Page 102</p> <p>1 A. Yes. 2 Q. And how did you locate this 3 abstract? 4 A. From a Pub Med search, MEDLINE 5 search. 6 Q. Okay. And you also discovered, 7 through a MEDLINE search, another abstract 8 entitled "Organ Donation and Utilization in 9 the USA." 10 A. Yes. 11 Q. And another one "Executive Summary 12 from the Intraoperative Advisory Council on 13 Donation After Cardiac Death of the United 14 Network for Organ Sharing." 15 A. Yes. 16 Q. And another, "Development of the 17 University of Wisconsin Donation After 18 Cardiac Death Evaluation Tool;" is that 19 correct? 20 A. Yes. 21 Q. Also among the documents that 22 you've produced, there's a document, and, 23 Doctor, you can tell me -- it appears to 24 be an abstract entitled "Are Non-brain" --</p>
<p style="text-align: center;">Page 103</p> <p>1 Excuse me. "Are Non-brainstem Dead Cardio 2 Donors Acceptable Donors?" Do you see 3 that abstract? 4 A. (Witness viewing document). Yes. 5 Q. How did you locate that abstract? 6 A. Also came from a literature search. 7 Q. A what search? 8 A. A literature search. 9 Q. So you conducted a literature 10 search, you conducted a MEDLINE search in 11 order to discover articles or abstracts 12 with respect to this asystole protocol; is 13 that correct? 14 A. Yes, correct. 15 Q. Did you speak to any persons with 16 respect to this issue? 17 A. Where? 18 Q. Anywhere? 19 A. I might have. 20 Q. Do you recall any such 21 conversations? 22 A. Yes. I did speak to doctors at 23 Syracuse about it. 24 Q. You mean other pathologists in the</p>	<p style="text-align: center;">Page 104</p> <p>1 Syracuse Medical Examiner's Office? 2 A. That's correct. 3 Q. Who did you speak to there about 4 this issue? 5 A. Doctor Stopacher, S-T-O-P-A-C-H-E-R. 6 Q. S-T-O-P-A-C-H-E-R? 7 A. H-E-R. 8 Q. What's that doctor's first name? 9 A. Robert. 10 Q. Okay. Anybody else at that office 11 that you spoke to? 12 A. No. 13 Q. And did Doctor Stopacher have any 14 opinion that he provided to you? 15 A. He also felt he had not enough 16 information on the topic. 17 Q. To have an opinion one way or the 18 other? 19 A. Yes. 20 Q. When you say "he also felt," are 21 you referring to yourself? 22 A. Yes. 23 Q. You felt you don't have enough 24 information on the topic?</p>



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<p style="text-align: center;">Page 105</p> <p>1 A. Yes. I didn't have enough 2 information at that point. 3 Q. But at least when you talked to 4 Doctor Stopacher, he didn't have an 5 opinion one way or the other; is that 6 correct? 7 A. Yes. 8 Q. But by the time you spoke to him, 9 you felt that you had an opinion; is that 10 correct? 11 A. No. I felt the medical examiner 12 community needed to be more aware of this 13 and discuss this more. 14 Q. Sitting here today, do you have an 15 opinion on whether the asystole protocol 16 is an appropriate means of determining 17 whether an organ donation is appropriate? 18 A. I -- 19 MR. SHARP: Objection. Go 20 ahead and answer, if you can. 21 A. I still think a wider discussion on 22 the topic needs to be held just like it 23 was held about the brain-dead criteria in 24 the '70s and '80s -- '70s.</p>	<p style="text-align: center;">Page 106</p> <p>1 Q. Do you have an opinion today 2 whether the asystole protocol is an 3 appropriate means of determining whether 4 harvesting of organs is appropriate? 5 MR. SHARP: Objection. Go 6 ahead and answer. 7 A. Not until a better discussion is 8 held on the topic. 9 Q. So until such discussion occurs, 10 you don't have an opinion yourself one way 11 or the other? 12 A. Until such a discussion takes 13 place, I do not think the procedure should 14 be done. 15 Q. And have you ever -- Strike that. 16 In discussions with anyone else in 17 the medical community, has anyone else 18 ever told you that they agree with that 19 position -- with your position? 20 A. No. 21 Q. During your time working at the 22 Medical Examiner's Office in Boston, did 23 you have any opinion about whether the 24 medical examiners had appropriate</p>
<p style="text-align: center;">Page 107</p> <p>1 protective clothing and equipment? 2 A. I did. 3 Q. What was your opinion? 4 A. The quality of the clothing that we 5 bought were not good. They leaked. 6 Q. What kind of clothing was it? 7 A. It's called a bunny suit in medical 8 examiner language. 9 Q. In regular English, what is it? 10 A. It's a full body suit that one zips 11 up, something like the astronaut. 12 Q. Do you know what it's made out of? 13 A. Some synthetic material, Tyvek. 14 Q. And that was a suit that was 15 available to you in the Medical Examiner's 16 Office? 17 A. Yes. 18 Q. Was that the clothing that was 19 typically worn by pathologists when they 20 were conducting autopsies? 21 A. Yes. 22 Q. And in addition to that suit, would 23 they wear any other protective clothing? 24 A. They did wear an apron on top.</p>	<p style="text-align: center;">Page 108</p> <p>1 Q. What was that made out of? 2 A. There were two options. There was 3 a plastic apron and an apron made from 4 similar material. 5 Q. Tyvek material? 6 A. Tyvek material. 7 Q. And what about gloves? Were any 8 gloves worn? 9 A. Yes. 10 Q. What kind of gloves? 11 A. Blue, yellow, latex, rubber. 12 Q. And what about on the feet? Did 13 you have anything on your feet when you 14 were conducting autopsies? 15 A. Shoe covers. 16 Q. Made out of what? 17 A. Same Tyvek material. 18 Q. Were there any other protective 19 equipment or clothing that was worn by the 20 pathologists? 21 A. Face shield. 22 Q. Was that made out of plastic? 23 A. Yes. 24 Q. And on --</p>



<p style="text-align: center;">Page 109</p> <p>1 A. And a mask.</p> <p>2 Q. -- anything else on your head? A</p> <p>3 mask?</p> <p>4 A. A cap and a mask.</p> <p>5 Q. Now, when you said before that you</p> <p>6 thought the quality of the clothing was</p> <p>7 not good and leaked, was there any</p> <p>8 particular one of these parts of the</p> <p>9 clothing that you're referring to?</p> <p>10 A. On the bunny suit.</p> <p>11 Q. Anything else?</p> <p>12 A. And the aprons.</p> <p>13 Q. Anything else?</p> <p>14 A. The shoe covers.</p> <p>15 Q. I take it it's the Tyvek material</p> <p>16 that you're not pleased with.</p> <p>17 A. No, each one of them had separate</p> <p>18 problems.</p> <p>19 Q. What was the problem with the bunny</p> <p>20 suit?</p> <p>21 A. The bunny suits leaked.</p> <p>22 Q. Leaked how?</p> <p>23 A. Blood and liquids would seep in,</p> <p>24 into the undergarments.</p>	<p style="text-align: center;">Page 110</p> <p>1 Q. And that could happen even if you</p> <p>2 were wearing an apron?</p> <p>3 A. Yes.</p> <p>4 Q. And what about the aprons? What</p> <p>5 were the problems with that?</p> <p>6 A. The plastic aprons were food</p> <p>7 service aprons which would be very loose</p> <p>8 at the arms and keep falling off. The</p> <p>9 Tyvek aprons leaked.</p> <p>10 Q. And what about the shoe covers?</p> <p>11 What was your problem with those?</p> <p>12 A. They were non -- they were not the</p> <p>13 nonskid variety so there was always a</p> <p>14 possibility of slipping.</p> <p>15 Q. Did you ever know of anybody -- of</p> <p>16 that happening to anybody?</p> <p>17 A. Frequently happened. Nobody fell</p> <p>18 fortunately.</p> <p>19 Q. And did you bring this -- your</p> <p>20 concerns about the quality of the clothing</p> <p>21 to the attention of anybody in</p> <p>22 administration at the Medical Examiner's</p> <p>23 Office?</p> <p>24 A. Yes, I did.</p>
<p style="text-align: center;">Page 111</p> <p>1 Q. Who did you tell that to?</p> <p>2 A. Mr. John Cronin.</p> <p>3 Q. Did you talk to Doctor Evans about</p> <p>4 it?</p> <p>5 A. Yes.</p> <p>6 Q. Well, first of all, with respect to</p> <p>7 John Cronin, when did you tell him?</p> <p>8 A. I brought it up as a topic at one</p> <p>9 of my meetings between January -- December</p> <p>10 30th to mid January. I don't remember --</p> <p>11 recall the exact date. I showed him an</p> <p>12 alternative set of apparel that we would</p> <p>13 wear in New York.</p> <p>14 Q. What did he say?</p> <p>15 A. He said the Tyvek suits were very</p> <p>16 expensive and he welcomed a suggestion,</p> <p>17 and asked me to see if any of the other</p> <p>18 medical examiners would experiment with it,</p> <p>19 with the suggestions that I had made.</p> <p>20 Q. And what did -- did you do anything</p> <p>21 in response?</p> <p>22 A. The next autopsy that I got, I</p> <p>23 demonstrated how the material could be</p> <p>24 used.</p>	<p style="text-align: center;">Page 112</p> <p>1 Q. And what material was this?</p> <p>2 A. This was OR -- operating room</p> <p>3 scrubs and a plastic poncho-like apron.</p> <p>4 Q. That goes over your shoulders?</p> <p>5 A. Go over my shoulders, yes.</p> <p>6 Q. Anything else in the new outfit?</p> <p>7 A. Shoe covers.</p> <p>8 Q. And what did they look like?</p> <p>9 A. Nonskid variety.</p> <p>10 Q. And did you talk to the other MEs</p> <p>11 about using this new equipment?</p> <p>12 A. Yes, I did.</p> <p>13 Q. What did any -- Strike that.</p> <p>14 Did any of them make any response?</p> <p>15 A. A few of them said they would be</p> <p>16 happy to try it if supplies were</p> <p>17 available.</p> <p>18 Q. Did anybody give any negative</p> <p>19 response?</p> <p>20 A. Yes. One ME said -- was outraged.</p> <p>21 Q. Who was that?</p> <p>22 A. I don't recall.</p> <p>23 Q. Why were they outraged?</p> <p>24 A. Felt it was regressive.</p>



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1 Q. Regressive?
 2 A. Regressive.
 3 Q. Going back to worse equipment?
 4 A. Yes. She thought -- She or he
 5 felt it was like a sack cloth being worn.
 6 Q. So it was probably one of the
 7 female MEs?
 8 A. I said he or she.
 9 Q. Right. You said she first.
 10 A. That was a mistake.
 11 Q. Okay. Whoever it was, they felt
 12 like it was something going backwards in
 13 time instead of forwards in time.
 14 A. Correct.
 15 Q. Did anything happen with respect to
 16 using the new equipment that you were
 17 proposing?
 18 A. I did an autopsy with that.
 19 Q. Did anything further happen other
 20 than you doing one autopsy?
 21 A. No further supplies of that
 22 material was made available.
 23 Q. Was that because the other MEs
 24 weren't interested?

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1 A. I said there were a couple people
 2 who were interested.
 3 MS. KELLEY: Could you mark
 4 this as the next exhibit, please?
 5 (Exhibit-9, January 7, 2004,
 6 E-mail Bates Stamped AGO-0128, marked for
 7 identification).
 8 BY MS. KELLEY:
 9 Q. Is that Number 9?
 10 A. (Witness viewing document). Yes.
 11 Q. Can you describe what Exhibit
 12 Number 9 is, please, Doctor?
 13 A. (Witness viewing document).
 14 Exhibit Number 9 is an e-mail from me to
 15 Mr. John Cronin.
 16 Q. And among other things, does this
 17 e-mail discuss the fact that you had
 18 spoken to some of the MEs and tech
 19 supervisors regarding the Tyvek versus
 20 plastic aprons?
 21 A. (Witness viewing document). Yes.
 22 Q. You say there were three kinds of
 23 responses: A, will try and comment; B,
 24 just not interested; C, stony silence. Is

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1 that a fair reading of that?
 2 A. Yes.
 3 Q. And then you say, "I will leave it
 4 to you to guess who did what."
 5 A. Yes.
 6 Q. Overall, did you have -- Strike
 7 that.
 8 Overall, was it your understanding
 9 that most of the other MEs were not
 10 particularly interested in trying the new
 11 equipment that you were proposing?
 12 A. Overall, my understanding is that
 13 some were willing to experiment with it.
 14 Q. After you sent this e-mail, did you
 15 have any discussion with John Cronin about
 16 moving forward with the new equipment?
 17 A. No.
 18 Q. So you sent this e-mail and never
 19 got any response?
 20 A. Correct.
 21 Q. Did you raise it again?
 22 A. No. There were other things to
 23 raise.
 24 Q. Like what?

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1 A. The other items on these agendas.
 2 Q. Oh, okay. The other things on the
 3 agendas that you had written out.
 4 A. Yes.
 5 MS. KELLEY: Could I have
 6 these marked as the next three exhibits,
 7 please?
 8 (Exhibit-10, November 10,
 9 2000, Letter Bates Stamped P-0529 through
 10 P-0536; Exhibit-11, September 19, 2001,
 11 Report to the Governor Bates Stamped
 12 P-0527 through P-0556; Exhibit-12, April 4,
 13 2002, Needs Assessment of Services Report
 14 Bates Stamped P-0557 through P-0572, marked
 15 for identification).
 16 BY MS. KELLEY:
 17 Q. Doctor Philip, I just requested
 18 that three documents be placed in front of
 19 you, and they have been marked as Exhibits
 20 10, 11 and 12 to this deposition. And
 21 I'll represent to you that these documents
 22 were produced by you in response to our
 23 request for production of documents. Could
 24 you just review those for a minute?



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<p style="text-align: center;">Page 117</p> <p>1 A. (Witness viewing document). 2 (Recess taken). 3 BY MS. KELLEY: 4 Q. Doctor, have you had the chance to 5 review what's been marked Exhibits 10, 11 6 and 12? 7 A. Yes. 8 Q. Is it accurate to say that you 9 produced these documents together with your 10 response to our document request? 11 A. That's only partially accurate. 12 Q. Okay. What's inaccurate about it? 13 A. You sent these documents to us 14 first, and then I have selected portions 15 of it to be produced back to you -- 16 Q. Okay. 17 A. -- because they support some of the 18 interrogatories and things like that that 19 we responded. 20 Q. Okay. Before we produced copies of 21 all or portions of these documents that 22 have been marked as Exhibits 10, 11 and 23 12, had you ever seen any portion of any 24 of these documents?</p>	<p style="text-align: center;">Page 118</p> <p>1 A. I received a copy of the Needs 2 Assessment of Forensic Services in the 3 Commonwealth of Massachusetts Report. 4 Q. So that's the -- 5 A. But not the other reports. 6 Q. That's the document marked as 7 Exhibit Number 12? 8 A. Twelve. 9 Q. The needs assessment marked as 10 Exhibit Number 12 is dated April 4th, 11 2002. Do you see that? 12 A. (Witness viewing document). Yes. 13 Q. Can you describe the circumstances 14 under which you first saw this document? 15 A. It was handed out to us at the 16 office. 17 Q. In approximately April of 2002? 18 A. Yeah, or once the higher 19 authorities had reviewed the report. 20 Maybe even being May or June. 21 Q. Of 2002? 22 A. Yes. 23 Q. And when you say it was handed out 24 in the office, did all of the medical</p>
<p style="text-align: center;">Page 119</p> <p>1 examiners in the office receive a copy of 2 this? 3 A. Yes. 4 Q. Did other people in the office 5 receive it also? 6 A. Yes. 7 Q. What other people received it? 8 A. All the Medical Examiner's Office 9 medical examiners. 10 Q. Any of the technicians? 11 A. I don't know. 12 Q. And was it provided to you in this 13 form? 14 A. I'm not sure if the entire report 15 was given or only the portions relevant to 16 the Medical Examiner's Office was handed 17 out. 18 Q. Who handed out the report or the 19 portion of the report? 20 A. I don't recall. It was at our 21 morning conference. 22 Q. Was there any discussion about the 23 reason that you were receiving a copy of 24 this report?</p>	<p style="text-align: center;">Page 120</p> <p>1 A. Because we had been interviewed for 2 the generation of this report. I could be 3 wrong, but I think it was Doctor Zane who 4 kept asking to see what the report was and 5 then it was handed out -- over to all the 6 medical examiners. 7 Q. You said you had been interviewed 8 for this report? 9 A. Yes. 10 Q. How did that come about? 11 A. This -- This team from Florida, 12 including two medical examiners from 13 Canada, were at the office interviewing 14 the functioning of the office, and they 15 had -- they had discussions with all the 16 medical examiners. 17 Q. At the point -- And you were one 18 of those people -- 19 A. Correct. 20 Q. -- who were interviewed? 21 A. Yes. 22 Q. At the point when you were 23 interviewed, did you have any understanding 24 of the reason you were being interviewed?</p>



<p style="text-align: center;">Page 121</p> <p>1 A. Because the Governor's office was 2 going to fix the problems and needed an 3 assessment of what and how it needed to be 4 done. 5 Q. Who told you that? 6 A. The person leading the team. I 7 forget his name, but if you gave me the 8 complete document I might be able to 9 recall. 10 Q. When you say, "the person leading 11 the team," you mean the people from 12 Florida that were doing the interviewing? 13 A. There were people from Florida and 14 Canada. 15 Q. Now, you just said whichever person 16 it was that said that to you, he told you 17 that the Governor's office was going to 18 fix problems at the Medical Examiner's 19 Office; is that correct? 20 A. That's correct. 21 Q. And did you have any discussion 22 about what those problems were? 23 A. He did ask me for my perspectives. 24 Q. What did you tell him, as best as</p>	<p style="text-align: center;">Page 122</p> <p>1 you can recall? 2 A. I did say that -- and I gave him 3 concrete examples of this, there were 4 process failures. 5 Q. What failures? 6 A. Process. 7 Q. Process failures. Such as? 8 A. I illustrated it with the example 9 of the microbiology testing. 10 Q. What did you tell him about that? 11 A. Specimens have remained in the 12 office for up to a year before being sent 13 to the lab. 14 Q. Did you tell him any other problems 15 with the microbiology testing? 16 A. No. That, I used as an 17 illustration. But I did mention that there 18 was process failure, there was lack of 19 quality assurance, there was issues with 20 morale. 21 Q. Do you recall any other process 22 failures that you discussed with the 23 testing person? 24 A. It was a long discussion. I don't</p>
<p style="text-align: center;">Page 123</p> <p>1 remember every detail of... 2 Q. About how long a discussion did you 3 -- Strike that. 4 Did you meet with one person or 5 more than one person? 6 A. I believe three. 7 Q. Three separate meetings? 8 A. Yes -- or two meetings with -- one 9 with one person and then one with the two 10 Canadians. 11 Q. And those two meetings, about how 12 long did each meeting last? 13 A. Between 20 and 30 minutes. 14 Q. Did you have an understanding that 15 the two Canadian people were doing 16 something different from the other Florida 17 team? 18 A. The rest of the Florida team seemed 19 to be Ph.D. types. The two MDs on the 20 team were from Canada. 21 Q. Did they ask you different kinds of 22 questions? 23 A. Yes. 24 Q. Can you describe generally the</p>	<p style="text-align: center;">Page 124</p> <p>1 difference in the questions asked you by 2 the Florida people as opposed to the 3 Canadian people? 4 A. The management structure, process 5 failure, quality assurance, these seemed to 6 interest the leader from -- leader of the 7 team from Florida. The problems with 8 workload, possibility of errors and all 9 that were more -- pay scales, et cetera, 10 were the discussions with the Canadian 11 doctors. 12 Q. Do you know if the Canadian doctors 13 were pathologists? 14 A. Yes, they were. 15 Q. During the course of these 16 discussions, was there any discussion about 17 inadequate screening for drugs or for 18 toxins? 19 A. I believe there was. 20 Q. Can you describe everything you can 21 recall about those discussions? 22 A. I did mention that the toxicology 23 screen was very limited and took a long 24 time to come for -- the turnaround times</p>



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1 were extraordinarily long.
2 Q. And what about -- anything about
3 any screening for toxins?
4 A. Toxicology.
5 Q. Oh, I'm sorry. Did you have any
6 discussion with any of these persons about
7 the number of autopsies that were being
8 conducted in the office?
9 A. They asked me what amount of
10 workload that I was dealing with, and they
11 felt it was too high and they put it into
12 their comments. They were also given
13 statistics from the administrators.
14 (Pause).
15 Q. Oh, I thought you were still
16 talking, Doctor. I'm sorry.
17 Was there any discussion at all
18 about how decisions were made to perform
19 autopsies on a particular decedent to
20 begin with?
21 A. No.
22 Q. Was there any discussion about the
23 relatively low number of autopsies
24 performed by the Medical Examiner's Office

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1 with respect to the entire number of
2 decedents?
3 A. I think there was. I'd like to
4 review this in detail to comment on that.
5 Q. Is it your best memory that you had
6 some discussions on that topic?
7 A. Yes.
8 Q. Do you recall anything about what
9 you said?
10 A. That we should be doing more
11 autopsies and less external examinations.
12 Q. As of the point when you were
13 interviewed in connection with this report,
14 was it your understanding that you weren't
15 doing more autopsies because you didn't
16 have sufficient staff?
17 A. Yes.
18 MS. KELLEY: Can we go off
19 the record for a minute?
20 (Lunch recess).
21 BY MS. KELLEY:
22 Q. Doctor Philip, this morning your
23 attorney handed me a sheaf of papers and
24 I'm just going to show you these and ask

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1 what they are.
2 A. (Witness viewing document). These
3 are some death certificates. And there's
4 a couple of cases, the records maintained
5 by the front -- the case intake people.
6 And then the daily case -- this is a
7 sheet of paper that would come to the
8 morning conference for discussion and --
9 discussion and assignment for whether it
10 would be autopsy or external examination
11 and the doctor who would deal with it.
12 Q. Do you know the period of time that
13 these documents cover?
14 A. It should be -- the information
15 should be available on the documents.
16 Q. Sitting here today, do you have any
17 idea what time period they cover?
18 A. I would think it's -- the daily
19 work sheets are from December 30th to
20 March.
21 Q. December 30th of 2003, to March of
22 2004?
23 A. It should be on this paperwork.
24 This is February 12th. End of December,

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1 January, February.
2 Q. So end of December 2003, January
3 and February of 2004?
4 A. Yes.
5 Q. And when did you make copies of
6 these documents?
7 A. These were on my desk, not copies.
8 These were what were given to us during
9 the morning conference. They just piled
10 up on my desk.
11 Q. So they were on your desk when you
12 left your employment?
13 A. Yes.
14 Q. And what understanding do you have,
15 if any, of why you're producing these
16 documents to me in this case?
17 A. It supports my argument that there
18 is unequal -- always was unequal
19 distribution of workload. Too many cases
20 were assigned as externals when they
21 should have been autopsies.
22 Q. Anything else that these documents
23 support, to the best of your knowledge?
24 A. That the elderly tend to be



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<p>Page 129</p> <p>1 externals compared to -- compared to the 2 younger age groups. 3 Q. Anything else? 4 A. Not that I know of off the top of 5 my mind. If I review everything, I might 6 have some other suggestions. 7 Q. The document that was marked as 8 Exhibit Number 12, do you still have that 9 in front of you? 10 A. (Witness viewing document). Yes, I 11 do. 12 Q. I believe you testified earlier 13 that this document was prepared, as far as 14 you understood, based upon the fact that 15 the Governor was going to fix certain 16 problems at the Medical Examiner's Office 17 and wanted information about how to fix 18 those; is that fair to say? 19 A. No, it's not. 20 Q. What's not fair about what I just 21 said? 22 A. It's not just the Medical 23 Examiner's Office, it's the entire Criminal 24 Justice System including the crime labs</p>	<p>Page 130</p> <p>1 and the toxicology setup and all that. 2 It's an entire bigger document. 3 Q. Okay. But it's your understanding 4 that the Governor intended to fix a number 5 of problems including problems in the 6 Medical Examiner's Office; is that fair? 7 A. That's fair. 8 Q. Okay. So is it your understanding 9 when you were interviewed in connection 10 with the document that became what's now 11 Exhibit Number 12, it was your 12 understanding that the ultimate report was 13 going to be delivered to the Governor's 14 office? 15 A. Yes. 16 Q. And do you know whether that, in 17 fact, took place? 18 A. I don't know. 19 Q. But you assume it did? 20 A. Yes. 21 Q. Now, you just said a minute ago 22 that the documents that your attorney 23 produced to me today supported, in part, 24 your argument that too many externals were</p>
<p>Page 131</p> <p>1 being done instead of autopsies; is that 2 correct? 3 A. That's correct. 4 Q. And when you refer to externals, 5 can you describe for the record what you 6 mean by that? 7 A. External examination is an external 8 viewing of the body and -- with or without 9 a draw of blood for toxicology. And a 10 death certificate is issued. 11 Q. Referring to what's been marked as 12 Exhibit Number 12, the second page of that 13 document, which is -- has a P-0558 at the 14 bottom, do you see that? 15 A. (Witness viewing document). Yes. 16 Q. Included within the findings of 17 this report, there's a section called " 18 2.1.8.2, Work Volume Conditions." Do you 19 see that? 20 A. (Witness viewing document). Yes. 21 Q. And it says that there's inadequate 22 technical and clerical support present in 23 the Medical Examiner's Office; is that 24 correct?</p>	<p>Page 132</p> <p>1 A. (Witness viewing document). 2 Correct. 3 Q. And reading a few sentences into 4 that report, into that section of the 5 report, it says "In order to manage the 6 volume of cases with the available 7 personnel, the office is aggressive in 8 pursuing external examinations, 9 parentheses, views, close parentheses, 10 rather than full autopsies in approximately 11 25 percent of cases." Did I read that 12 correctly? 13 A. (Witness viewing document). Yes, 14 you did. 15 Q. So that was something that was 16 discussed with those people preparing this 17 report back in April 2002. 18 A. Correct. 19 Q. They go on to say, "They also 20 restrict toxicology testing because of a 21 cap on resources." Do you see that? 22 A. (Witness viewing document). 23 Correct. 24 Q. Was it your understanding that the</p>



<p style="text-align: center;">Page 133</p> <p>1 people preparing this report were made 2 aware of that fact back in early 19 -- 3 early 2002? 4 A. Yes. 5 Q. In the next paragraph, the first 6 sentence of that paragraph, "Another 7 problem is the agency cannot get complete 8 enough information concerning deaths to 9 qualified personnel in order for them to 10 make fully informed decisions as to 11 whether to take cases." Did I read that 12 correctly? 13 A. (Witness viewing document). Yes, 14 you did. 15 Q. So that was another thing that had 16 been discussed with these people preparing 17 the report for the Governor. 18 A. That's correct. 19 MR. SHARP: Objection. Go 20 ahead. Go ahead. 21 THE WITNESS: I said that's 22 correct. 23 MS. KELLEY: Could we have 24 these three marked as the next three</p>	<p style="text-align: center;">Page 134</p> <p>1 exhibits, please? 2 (Exhibit-13; Group of 3 Documents Bates Stamped P-0389 through 4 P-0447; Exhibit-14, Group of Documents 5 Bates Stamped P-0448 through P-0473; 6 Exhibit-15, Memorandum Bates Stamped 7 P-0474, marked for identification). 8 BY MS. KELLEY: 9 Q. Doctor Philip, do you have what's 10 been marked as Exhibit Number 13 to this 11 case? 12 A. (Witness viewing document). Yes, I 13 do. 14 Q. I will represent to you that those 15 documents are documents produced by you in 16 response to Defendants' Request Number 6 17 for production of documents, and that 18 request seeks documents which evidence or 19 support the plaintiff's allegations in 20 Paragraph 12 of the amended complaint that 21 among the ways in which Doctor Philip 22 reasonably believed the operations of the 23 OCME violated state regulations or created 24 dangers to public health and safety,</p>
<p style="text-align: center;">Page 135</p> <p>1 quote, was the failure of the OCME to 2 conduct adequate toxicological studies of 3 newly deceased hospital and nursing home 4 patients who presented to OCME with high 5 levels of morphine in their body, period, 6 close quotes. 7 Is it your understanding that the 8 documents that I've just shown you are, in 9 fact, documents which you believe support 10 that allegation? 11 A. (Witness viewing document). What 12 this Exhibit Number 13 contains is several 13 things puts together. The first is a 14 bunch of death certificates from primarily 15 nursing homes with horribly crafted death 16 certificates which do not satisfy the 17 criteria of a properly framed death 18 certificate and which needed to have been 19 examined again or reviewed by the Medical 20 Examiner's Office. 21 The next set of documents are two 22 -- one -- sorry -- two autopsy reports 23 with -- in cases where there was 24 extraordinarily high levels of morphine in</p>	<p style="text-align: center;">Page 136</p> <p>1 the person, and I had requested an 2 investigation into those cases. And then 3 there's a bunch of e-mails that went 4 between me and the director of the tox lab 5 about these cases. 6 The third case is of a Sandra -- 7 I'm trying to find out why this was 8 included. 9 (Witness viewing document). Yes. 10 She had a very high level of hydrocodone 11 in her system -- hydromorphone in her 12 system. 13 Again, these are examples of cases 14 with head injury and a coincidental 15 finding of high opiate levels which I 16 wanted to investigate and was prevented 17 from doing that. 18 Q. When you say "prevented," how were 19 you prevented? 20 A. I was told not to. 21 Q. By whom? 22 A. Doctor Evans and Edith Platt. 23 Q. Did they tell you why they didn't 24 want you to investigate them?</p>



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1 A. To properly investigate these
2 cases, I had to share clinical records
3 with the pharmacist from the hospital
4 concerned, and they felt confidential
5 information was being given out and didn't
6 want me to further pursue this topic.
7 Q. Did you believe that was a
8 reasonable explanation on their part?
9 A. No, it isn't -- it wasn't, but
10 orders were orders and I complied.
11 Q. You didn't think it was reasonable
12 that they were trying to hold back the
13 sharing of confidential information?
14 MR. SHARP: Objection. Go
15 ahead, if you can.
16 A. Could you repeat that question?
17 Q. You didn't think it was reasonable
18 that Doctor Evans and Edith Platt were
19 attempting to hold back the sharing of
20 confidential information?
21 A. No. I thought there was a matter
22 that needed investigation and it was the
23 role of the Medical Examiner's Office to
24 pursue these.

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1 Q. Do you have what's been marked as
2 Exhibit Number 14 in front of you?
3 A. (Witness viewing document). Yes, I
4 do.
5 Q. I'll represent that these, again,
6 were documents produced by you in response
7 to our request for production of
8 documents. Looking through that packet of
9 documents, do you have an understanding of
10 what part of the allegations of your
11 complaint these documents are meant to
12 support?
13 A. (Witness viewing document). Yes.
14 These -- The first report is an example of
15 a coherent toxicology report compared to
16 the confusing kinds of report that is
17 generated by the toxicology lab in the
18 Boston -- attached to the Boston Medical
19 Examiner's system. Also an example of the
20 full range of testing that is done at the
21 New York office in contrast to the limited
22 testing that we do here. And then there is
23 a letter that I discussed initially with
24 Guy Vallaro, who is in charge of the

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1 toxicology lab in -- in Worcester attached
2 to the Medical Examiner's Office, and gave
3 further examples of reports from other
4 places that were concise, coherent and
5 legible compared to the kinds of reports
6 that were generated for medical examiners
7 in Boston.
8 Q. The first thing you said about the
9 coherent report as compared to the
10 confusing Boston reports --
11 A. That's correct.
12 Q. -- I take it the coherent report is
13 the first page.
14 A. It's one example. There are
15 several examples.
16 Q. Well, Page P-0448, is that an
17 example of a coherent report?
18 A. (Witness viewing document). Yes.
19 Q. And is that the full report, just
20 that one page?
21 A. Yes.
22 Q. And what's an example of a
23 confusing Boston report?
24 A. It's attached to these cases here

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1 (indicating).
2 Q. Are there numbers on the page?
3 A. (Witness viewing document). Yes.
4 P-409 and P-0410.
5 Q. And are they -- are those part of
6 another exhibit in this case?
7 A. It's part of Exhibit 13.
8 Q. And with respect to the report at
9 Page 409, 410, which is part of Exhibit
10 Number 13, what is it about that report
11 that you consider to be confusing as
12 compared to the New York report?
13 A. The -- The numbers, which is the
14 significant finding in the report, is not
15 presented in a manner that can be
16 highlighted. It's inserted into a large
17 number of words that talk about matters
18 that are nonessential to the forensic
19 pathologist.
20 For example, they give a report --
21 I'm reading Page 410, "Following a single
22 10-milligram oral dose of up to 39
23 nanogram per ML," I don't know what that
24 means. "Reporting limit 20 nanogram per



<p style="text-align: center;">Page 141</p> <p>1 ML. Plasma concentrations from 18 to 27 2 nanogram." These are -- This is relevant 3 to the clinical doctor, not to the 4 forensic pathologist who's more concerned 5 with lethal levels, but national medical 6 services give that information. It's just 7 cut and patched onto the toxicology report 8 and sent out. 9 Q. This report at Pages 409 and 410, 10 it's got Doctor Evangelista's name on it. 11 A. He submitted the specimen. 12 Q. Why do you have a copy of this? 13 A. Because he was doing this autopsy 14 under my direct supervision and I had to 15 co-sign. 16 Q. And why did you keep a copy of 17 this for your records? 18 A. Because this is what I explained to 19 Guy Vallaro once, explained to other 20 doctors several times and to John Cronin 21 as failures of the toxicology lab. 22 Q. So you kept this as evidence of 23 failures of the toxicology lab? 24 A. That's correct.</p>	<p style="text-align: center;">Page 142</p> <p>1 Q. And the document that's been marked 2 as Exhibit Number 15, do you have that in 3 front of you? 4 A. (Witness viewing document). Yes. 5 Q. Again, I'll represent that these 6 are documents that were produced by you in 7 response to our request for production of 8 documents. Do you have any understanding 9 looking at that document, Doctor, as to 10 what part of the allegations of your 11 complaint that document supports? 12 A. I don't know the number, but this 13 supports the argument that microbiological 14 testing is not properly done. 15 Q. And did you feel that was a failing 16 at the Boston Medical Examiner's Office? 17 A. Yes. 18 Q. And what about microbiological 19 testing, what was done there that was not 20 properly done? 21 A. I discussed three cases, one of 22 them was mine and two by Doctor Chirkov. 23 And at least my case hadn't been 24 transported from the Medical Examiner's</p>
<p style="text-align: center;">Page 143</p> <p>1 Office to the microbiology lab for one 2 year. 3 Q. So that was one problem, failure to 4 deliver in a timely way? 5 A. Yes. 6 Q. What other problems did you 7 perceive? 8 A. There were always issues about 9 proper specimens being sent across. The 10 protocols were not there for testing of 11 some of the newer diseases that -- some of 12 the newer diseases that were cropping up 13 and needed to be monitored were not being 14 followed. 15 And there was not adequate 16 discussions between the office and the 17 microbiology lab. We just had a contract 18 and things happened or were done as and 19 when people felt like it. 20 Q. Did you have any discussion with 21 anybody, either John Cronin or Doctor 22 Evans, about these failures? 23 A. I did. 24 Q. And do you recall anything that --</p>	<p style="text-align: center;">Page 144</p> <p>1 Strike that. 2 Did you talk to both of them about 3 this or just one of them? 4 A. I did talk to both of them about 5 it. 6 Q. And do you recall what either one 7 of them said to you? 8 A. No, but just one more of those 9 complaints that I kept making. 10 Q. They said to you that's just one 11 more complaint you've made? 12 A. No. The attitude was that it was 13 one more of those complaints that I was 14 making. 15 Q. What did they say to you? 16 A. I don't recall the exact words. 17 Q. Do you recall generally the 18 substance of the words they used? 19 A. No. I felt the response was as if 20 they were saying, "Okay. We know it's 21 wrong." 22 Q. I take it it's your testimony 23 nothing was ever done in response to your 24 complaints.</p>



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1 A. This was a case in 2002, and I had
2 similar experiences in 2004.
3 MS. KELLEY: Could we have
4 these marked as the next two exhibits,
5 please?
6 (Exhibit-16, Document
7 Entitled "The Strange Case of Michael
8 Williamson (2001-3459)" Bates Stamped
9 P-0383; Exhibit-17, Document Entitled "The
10 Missed Homicide of John L. Weil
11 (1997-3626)" Bates Stamped P-0384, marked
12 for identification).
13 BY MS. KELLEY:
14 Q. Doctor, you have in front of you
15 what's been marked Exhibits 16 and 17. Do
16 you see those?
17 A. (Witness viewing document). Yes.
18 Q. First, with respect to Exhibit
19 Number 16, what is that?
20 A. That was a 34-year-old male who
21 died --
22 Q. Well, first of all, before we even
23 get -- What is this? Is this a
24 memorandum that you prepared?

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1 A. Yes.
2 Q. When did you prepare it?
3 A. In -- Before I left in 2002.
4 Q. This particular person, when did
5 this occur?
6 A. The case?
7 Q. Yeah.
8 A. Towards the end of 2001.
9 Q. And, I'm sorry, you said you
10 prepared this before you left in 2002?
11 A. Yes. Might be April, May -- March,
12 April, May.
13 Q. And what caused you to prepare this
14 memo?
15 A. I handed this -- these two with a
16 cover letter to Rachel -- I forget her
17 last name. She was the legal counsel at
18 the Medical Examiner's Office -- to
19 illustrate examples where district medical
20 examiners were falling flat on their faces
21 regarding evaluation of cases.
22 MS. KELLEY: Could we have
23 these marked as 18 and 19, please?
24 .

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1 (Exhibit-18, Handwritten
2 Document Bates Stamped P-0382; Exhibit-19,
3 Handwritten Document Bates Stamped P-0387
4 through P-0388, marked for identification).
5 BY MS. KELLEY:
6 Q. Doctor, I've just put in front of
7 you two additional documents marked
8 Exhibits 18 and 19. Do you see those?
9 A. (Witness viewing document). Yes.
10 Q. With respect to the -- Exhibit
11 Number 16, had that been submitted
12 together with one of these exhibits?
13 A. Eighteen was submitted with Exhibit
14 Numbers 16 and 17.
15 Q. So Exhibit Number 18 is the memo to
16 Rachel.
17 A. The cover letter to the other two,
18 yes.
19 Q. Okay. And this was submitted at
20 some point in the spring of 2002.
21 A. Yes.
22 Q. Now, getting back to Exhibit Number
23 16, what was the reason that you submitted
24 this to Rachel?

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1 A. She seemed to be interested in
2 cases where there were issues in the
3 Medical Examiner's Office.
4 Q. And you thought this demonstrated
5 the --
6 A. A major failing of the Medical
7 Examiner's Office.
8 Q. Okay. And what about the next
9 exhibit, Exhibit Number 17? What is that?
10 A. (Witness viewing document). That
11 was another homicide that was missed
12 because it was evaluated at the scene by a
13 district medical examiner.
14 Q. What's a district medical examiner?
15 A. A district medical examiner are
16 retired practicing physicians picked at
17 local area hospitals who were doing part
18 of the medical examiner work, several of
19 them without any qualifications, licensing,
20 registration.
21 Q. And was it your belief back when
22 you prepared this memo that these types of
23 evaluations should have been performed by
24 actual staff members from the Medical



<p style="text-align: center;">Page 149</p> <p>1 Examiner's Office?</p> <p>2 A. It is my contention that the</p> <p>3 Medical Examiner's Office needs to maintain</p> <p>4 a cadre of what is called as death</p> <p>5 investigators.</p> <p>6 Q. Do you know why they didn't do that</p> <p>7 back in 2002?</p> <p>8 A. I'm not going to interpret other</p> <p>9 people's minds.</p> <p>10 Q. Did anyone ever indicate to you any</p> <p>11 reasons why they didn't have that cadre of</p> <p>12 investigators that you thought was needed?</p> <p>13 A. No.</p> <p>14 Q. You said you didn't recall Rachel's</p> <p>15 name, but she was an attorney; is that</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. Was she in the Medical Examiner's</p> <p>19 Office or in some other office?</p> <p>20 A. She was at the Medical Examiner's</p> <p>21 Office.</p> <p>22 Q. Was she employed by the Executive</p> <p>23 Office of Public Safety, if you know?</p> <p>24 A. Yes.</p>	<p style="text-align: center;">Page 150</p> <p>1 Q. Did she spend all of her time in</p> <p>2 the Medical Examiner's Office?</p> <p>3 A. I believe so, yes.</p> <p>4 Q. Was she taking over for Jackie</p> <p>5 Faherty when Jackie was on a maternity</p> <p>6 leave?</p> <p>7 A. It could be.</p> <p>8 Q. When Jackie returned, do you know</p> <p>9 where Rachel went?</p> <p>10 A. No.</p> <p>11 Q. Now, the document that's been</p> <p>12 marked as Exhibit Number 19, what is that</p> <p>13 document?</p> <p>14 A. (Witness viewing document). That</p> <p>15 document is a document that I quickly</p> <p>16 wrote up about issues with the New England</p> <p>17 Organ Bank.</p> <p>18 Q. What was your concern about the New</p> <p>19 England Organ Bank?</p> <p>20 A. Concern Number 1 was about a stab</p> <p>21 injury to the groin which a surgeon</p> <p>22 working on the behalf of the New England</p> <p>23 Organ Bank cut through the stab injury.</p> <p>24 It was not for therapeutic reasons, but</p>
<p style="text-align: center;">Page 151</p> <p>1 for extracting lymph nodes for some</p> <p>2 testing that New England Organ Bank needed</p> <p>3 to do.</p> <p>4 Q. And you felt that interfered with</p> <p>5 the --</p> <p>6 A. Evaluation of the stab injury.</p> <p>7 Q. Okay. What other concerns did you</p> <p>8 have about the New England Organ Bank that</p> <p>9 you wanted to call to her attention?</p> <p>10 A. The next case I discussed was a</p> <p>11 case that was, again, a homicide,</p> <p>12 maintained too long on a respirator and</p> <p>13 limited the evaluation of the brain. There</p> <p>14 were several other cases where admission</p> <p>15 bloods were taken by the organ bank and</p> <p>16 relevant toxicology could not be done.</p> <p>17 Q. So it seems you were mostly</p> <p>18 concerned with the fact that some of the</p> <p>19 things they were doing were impeding your</p> <p>20 ability to find out the cause of death or</p> <p>21 whether or not something was related to a</p> <p>22 crime.</p> <p>23 A. Correct.</p> <p>24 THE WITNESS: Attorney</p>	<p style="text-align: center;">Page 152</p> <p>1 Kelley, I need a small break to go to the</p> <p>2 restroom.</p> <p>3 MS. KELLEY: If you want to</p> <p>4 take a short break, that's fine.</p> <p>5 (Recess taken).</p> <p>6 BY MS. KELLEY:</p> <p>7 Q. Doctor Philip, going back to</p> <p>8 Exhibit Number 13 for a minute, do you</p> <p>9 have that in front of you?</p> <p>10 A. (Witness viewing document). Yes.</p> <p>11 Q. I believe you had testified that</p> <p>12 some of the documents in this exhibit</p> <p>13 consist of poorly prepared death</p> <p>14 certificates, and I think you said they</p> <p>15 should have been reviewed by the Medical</p> <p>16 Examiner's Office. Was that your</p> <p>17 testimony?</p> <p>18 A. That's correct.</p> <p>19 Q. In the case of death certificates</p> <p>20 that should have been reviewed by the</p> <p>21 Medical Examiner's Office, who was actually</p> <p>22 issuing these death certificates?</p> <p>23 A. Various hospitals and nursing</p> <p>24 homes.</p>



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1 Q. And how did you come into
2 possession of them?
3 A. Several of them were also cases for
4 commission certification, and I got --
5 when I would do my commission certificates
6 and find a certificate like this, I would
7 follow it up with a phone call to the
8 nursing home and give them a feedback.
9 But at several of the crematoria, I found
10 extra certificates from other cases still
11 lying there and I would request for a
12 copy.
13 Q. To the best of your knowledge, was
14 it required that nursing homes submit
15 copies of death certificates in the event
16 of all nursing home deaths to the Medical
17 Examiner's Office?
18 A. To the best of my knowledge, the
19 nursing homes report cases to the Medical
20 Examiner's Office and the Medical
21 Examiner's Office makes a decision whether
22 we are going to waive jurisdiction or
23 decide to investigate it further.
24 Q. So it's your understanding that

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1 nursing homes report all deaths to the
2 Medical Examiner's Office.
3 A. No, deaths that take place within
4 certain criteria.
5 Q. What are those criteria?
6 A. Dying within 24 hours of reaching
7 the nursing home, not adequate history,
8 cases in which it looks like there might
9 be trauma.
10 Q. And when a nursing home does report
11 something, report a death to the Medical
12 Examiner's Office, who makes the decision
13 whether that death needs to be
14 investigated further or not?
15 A. Depending on the hour of the call,
16 sometimes the case can take -- people will
17 take the decision themselves and then run
18 it by the medical examiner the next
19 morning, or they will tell a medical
20 examiner that this was the case, are we
21 interested.
22 Q. So when you say "medical examiner,"
23 it could be any of the staff pathologists
24 in the office?

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1 A. That's correct.
2 Q. So any one of them could make that
3 decision?
4 A. That's correct.
5 Q. I take it as part of this case,
6 Doctor, one thing you're alleging is that
7 when you were working at the Medical
8 Examiner's Office not enough nursing home
9 patient deaths were being investigated.
10 Is that correct?
11 A. That's correct.
12 Q. Is it your position that some of
13 your fellow pathologists were not making
14 enough recommendations that these deaths be
15 investigated?
16 A. No. The general attitude was that
17 anybody over 50 we are not going to really
18 pursue the case. A presumptive diagnosis
19 of heart disease would be made and then we
20 would say we waive jurisdiction. If the
21 doctor wanted a suggestion as to what
22 could be -- what could be put down on the
23 death certificate, we would say it was
24 cardiovascular disease.

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1 Q. But this would be something that
2 would be left to the individual
3 pathologists to make a decision; is that
4 correct?
5 A. What would be?
6 Q. The question of whether to
7 investigate a nursing home death further
8 would be left up to the pathologist who
9 actually reviewed the particular death
10 certificate?
11 A. Correct. But it is my contention
12 that by not having death investigators,
13 leaving the nursing homes to police
14 themselves, they gave us whatever
15 information they felt was needed and we
16 took a decision to decline jurisdiction
17 based on that without finding out from the
18 family if there were any accusations of
19 abuse, if the family had any issues about
20 the treatment.
21 Q. So you're suggesting that in at
22 least certain cases, the medical examiners
23 didn't have enough information to make a
24 correct decision about whether to



<p style="text-align: center;">Page 157</p> <p>1 investigate further. 2 A. The -- The entire setup of the 3 Medical Examiner's Office was one which 4 encouraged inadequate investigation of the 5 nursing home deaths. 6 Q. You said -- You've testified 7 several times today that you felt that 8 there were too many externals being done 9 and not enough full autopsies; is that 10 correct? 11 A. That's correct. 12 Q. Who would make the final decision 13 as to whether or not an external were 14 going to be performed with respect to a 15 particular decedent or whether a full 16 autopsy would be performed? 17 A. It would be very often decided at 18 the morning conference, but again, it was 19 left to -- some of the doctors would still 20 go ahead and do the autopsy even if it 21 was decided that an external was adequate. 22 So it's a combination of both a group 23 decision as well as individual decisions. 24 Q. So that if a particular pathologist</p>	<p style="text-align: center;">Page 158</p> <p>1 -- Strike that. 2 So I gather it's your testimony 3 that at the morning conference, a general 4 decision would be made that X, Y, Z 5 patients required full autopsies and the 6 remainder could be done just through 7 externals. Is that correct? 8 A. That's correct. 9 Q. But then the individual pathologist 10 could decide to do more than a mere 11 external no matter what had happened at 12 the morning conference? 13 A. That's correct. 14 Q. And they weren't prohibited from 15 doing that; is that correct? 16 A. Yes. 17 Q. And that would be in the judgment 18 of the particular pathologist, that would 19 be left to his individual judgment? 20 A. That's correct. 21 Q. Doctor, I understand that there 22 came a time when there was a particular 23 incident with respect to the Medical 24 Examiner's Office where two women were</p>
<p style="text-align: center;">Page 159</p> <p>1 misidentified after a fire. Do you recall 2 that incident? 3 A. I do. 4 Q. Do you know when that had happened? 5 A. December 30th, I think. 6 Q. Of what year? 7 A. 2003. 8 Q. Excuse me? 9 A. 2003. 10 Q. And were you involved with that 11 incident in any way? 12 A. I did the autopsy on one of the 13 two cases. 14 Q. And did you sign a death 15 certificate with respect to that case? 16 A. Yes, I did. 17 MS. KELLEY: Actually, can 18 we just take a short break? 19 (Recess taken). 20 MS. KELLEY: Could we have 21 these marked as the next three exhibits, 22 please? 23 . 24 .</p>	<p style="text-align: center;">Page 160</p> <p>1 (Exhibit-20; Memorandum Bates 2 Stamped P-0527; Exhibit-21; E-mail Bates 3 Stamped P-0528; Exhibit-22, Letter Bates 4 Stamped AGO-0757 through AGO-0759, marked 5 for identification). 6 BY MS. KELLEY: 7 Q. Doctor Philip, with respect to 8 Exhibit Number 20 that's in front of you, 9 can you describe what that document is? 10 A. (Witness viewing document). This 11 is a letter to the senior administrators 12 and doctors at the Medical Examiner's 13 Office, and this is what I already 14 testified about. This was a request for 15 changing -- starting autopsies earlier, 16 which would synchronize with the doctors' 17 schedule and the technicians' schedule. 18 Q. And what's -- Strike that. 19 Do you know approximately when this 20 document was prepared? 21 A. I believe it was January 5th, but 22 there's no date. 23 Q. January of 2004? 24 A. Four.</p>



<p style="text-align: center;">Page 161</p> <p>1 Q. And was this prepared by Mr. 2 Garcia? 3 A. This was e-mailed by Mr. Garcia. 4 Q. And the next exhibit, Exhibit 5 Number 21, what is that? 6 A. (Witness viewing document). This 7 was -- On January 9 -- This was an 8 e-mail, again, to everybody that on 9 January 9th, I said I had a plan and a 10 proposal and I was not being allowed to 11 explain the proposal to everybody. And a 12 question, what is it the administration is 13 so afraid of, of even suggestions? 14 Q. So who did you direct -- Strike 15 that. 16 You produced this document which 17 has been marked as Exhibit Number 21? 18 A. That's correct. 19 Q. And you e-mailed it to whom? 20 A. To all the medical examiners. 21 Q. Did you also e-mail it to the 22 administration? 23 A. Yes. 24 Q. To John Cronin and Doctor Evans?</p>	<p style="text-align: center;">Page 162</p> <p>1 A. Yes. 2 Q. And so in an e-mail to them, you 3 said, "Are those in charge so caught up in 4 their political maneuvers and seat-warming 5 exercises that they cannot come to the 6 conference room to discuss solutions to 7 burning issues?" You said that? 8 A. That's correct. 9 Q. Did you get any response to this 10 e-mail from either Doctor Evans or John 11 Cronin? 12 A. No, I didn't. 13 Q. And Exhibit Number 22, can you 14 describe what that document is? 15 A. (Witness viewing document). 16 Exhibit Number 22 was a letter I had 17 prepared to be sent out to several DAs who 18 I had been working with explaining my side 19 of the story because I was sure they would 20 be hearing rumors once they found out that 21 I had left the office. 22 Q. Okay. So when was this document 23 prepared? 24 A. This was prepared, I believe, March</p>
<p style="text-align: center;">Page 163</p> <p>1 1st or March 2nd. 2 Q. Of 2004? 3 A. 2004. 4 Q. At that point when you drafted this 5 document, had you been terminated yet? 6 A. No. 7 Q. Did you think you were going to be? 8 A. No. I was facing a one-day 9 suspension. 10 Q. I think you started to say that 11 this was something you were sending to 12 DAs; is that correct? 13 A. That's correct. 14 Q. Which DAs? 15 A. The DAs I've been working on -- 16 working with on my cases. 17 Q. Did you actually send it to those 18 DAs? 19 A. No, I didn't. 20 Q. Why not? 21 A. I drafted this, I printed it out, 22 collected it from the printer, left it on 23 my desk saying I would think about it and 24 then send it out next day as an attachment</p>	<p style="text-align: center;">Page 164</p> <p>1 to an e-mail. It disappeared from my 2 office. 3 Q. Backing up a little, it was your 4 intention to send this to DAs that you had 5 cases with; is that correct? 6 A. That's correct. 7 Q. Was it your intention to send it to 8 anybody else? 9 A. No. 10 Q. Just to the DAs? 11 A. Yes. 12 Q. So you left it overnight on your 13 office desk -- 14 A. Yes. 15 Q. -- either March 1st or 2nd? 16 A. Correct. 17 Q. And the next day when you came in, 18 it was gone? 19 A. Yes. 20 Q. But it was something you prepared 21 on the computer; is that correct? 22 A. That's correct. 23 Q. So you still had it on your 24 computer?</p>



<p style="text-align: center;">Page 165</p> <p>1 A. That's correct.</p> <p>2 Q. Where did you get the copy that</p> <p>3 you've produced in this case? Strike</p> <p>4 that.</p> <p>5 Have you produced a copy of it in</p> <p>6 this case?</p> <p>7 A. I believe you all sent us a lot of</p> <p>8 information and this sheet was in that, so</p> <p>9 it was returned to you --</p> <p>10 Q. This may have actually been</p> <p>11 produced by us. I don't -- I don't know</p> <p>12 sitting here today, Doctor, whether you</p> <p>13 produced this back to us or not and I'm</p> <p>14 asking you whether you know.</p> <p>15 A. I don't know.</p> <p>16 Q. Okay. So you get back on either</p> <p>17 March 2nd or March 3rd, and --</p> <p>18 A. The 1st or 2nd.</p> <p>19 Q. Oh, excuse me. You left it on</p> <p>20 your desk overnight on which night?</p> <p>21 A. It's either the 1st or the 2nd,</p> <p>22 yes.</p> <p>23 Q. Okay. So you come in the next</p> <p>24 day, and is it fair to say that's either</p>	<p style="text-align: center;">Page 166</p> <p>1 the 2nd or the 3rd?</p> <p>2 A. Yes.</p> <p>3 Q. And it's no longer on your desk,</p> <p>4 right?</p> <p>5 A. Correct.</p> <p>6 Q. But you could have produced another</p> <p>7 copy with your computer?</p> <p>8 A. If I wanted to, yes.</p> <p>9 Q. Why did you make a decision not to</p> <p>10 send this letter out to the DAs?</p> <p>11 A. I just got caught up with the work</p> <p>12 on the 3rd.</p> <p>13 Q. And never got back to it?</p> <p>14 A. Yes.</p> <p>15 Q. Have you reviewed this document</p> <p>16 recently, Doctor?</p> <p>17 A. Not in detail.</p> <p>18 Q. Is it your understanding that the</p> <p>19 things that you say in this document are</p> <p>20 factually accurate?</p> <p>21 A. Yes.</p> <p>22 Q. Well, one of the things you say in</p> <p>23 this document with respect to an incident</p> <p>24 occurring on February 13th of 2004, you</p>
<p style="text-align: center;">Page 167</p> <p>1 say that you, "agreed to sign a death</p> <p>2 certificate and left the death certificate</p> <p>3 on a side counter in the autopsy rooms."</p> <p>4 Do you see that down near the bottom of</p> <p>5 the first page of this exhibit?</p> <p>6 A. (Witness viewing document). Yes.</p> <p>7 Q. And then you say, "Someone later</p> <p>8 picked up the death certificate to find it</p> <p>9 contaminated."</p> <p>10 A. Correct.</p> <p>11 Q. Do you see that? Is that an</p> <p>12 accurate description of what occurred on</p> <p>13 that day?</p> <p>14 A. (Witness viewing document). Yes.</p> <p>15 Q. Actually, Doctor, I would ask you</p> <p>16 to review this document. And when you're</p> <p>17 finished reviewing it, advise me whether</p> <p>18 this is, in fact, a copy of the document</p> <p>19 that you prepared yourself. Can you do</p> <p>20 that, please?</p> <p>21 A. (Witness viewing document). It is</p> <p>22 a document that I prepared myself.</p> <p>23 Q. Okay. Okay, Doctor. Getting to</p> <p>24 the incident of February 13th of 2004, you</p>	<p style="text-align: center;">Page 168</p> <p>1 understand that there at least is alleged</p> <p>2 to have occurred an incident involving a</p> <p>3 bloodstained death certificate on that</p> <p>4 date?</p> <p>5 A. Yes.</p> <p>6 Q. Can you describe as much as you can</p> <p>7 recall factually about what occurred on</p> <p>8 February 13th with respect to that</p> <p>9 bloodstained death certificate?</p> <p>10 A. Someone first stuck their head in</p> <p>11 through one door and said I should sign</p> <p>12 the death certificate.</p> <p>13 Q. And who was that person?</p> <p>14 A. Leslie Ward.</p> <p>15 Q. Do you remember the words she used?</p> <p>16 A. Not exactly, no. I can't recall</p> <p>17 that.</p> <p>18 Q. When she stuck her head in the</p> <p>19 door, did you have an understanding of</p> <p>20 whose death certificate it is she wanted</p> <p>21 you to sign?</p> <p>22 A. No.</p> <p>23 Q. Did she say why she needed you to</p> <p>24 sign one?</p>



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1 A. Because a funeral home was waiting.
 2 Q. And at that point when she had
 3 stuck her head in the door, what were you
 4 doing?
 5 A. I was doing a homicide autopsy.
 6 Q. Was anyone else present?
 7 A. There was a technician with me.
 8 Q. Who was that?
 9 A. Edward Doyon.
 10 Q. How do you spell his last name?
 11 A. D-O-Y-O-N.
 12 Q. Anyone else present?
 13 A. There might -- There might have
 14 been an autopsy going on on the other
 15 table.
 16 Q. Sitting here today, do you recall
 17 whether that's true?
 18 A. I know there was an autopsy going
 19 on there when I started. I don't know
 20 when that finished, but Evangelista was
 21 doing the autopsy.
 22 Q. Did he have a technician with him?
 23 A. Yes, he did.
 24 Q. Do you know who that was?

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1 A. No.
 2 Q. Were there any state police in the
 3 autopsy room at that time?
 4 A. There was a state police trooper
 5 taking photographs on Frank Evangelista's
 6 case.
 7 Q. Do you know who that was?
 8 A. Sergeant L'Italien.
 9 MS. KELLEY: And that's L,
 10 apostrophe, I-T-A-L-I-E-N, I think.
 11 MS. FAHERTY: (Nodded).
 12 MS. KELLEY: Yeah.
 13 BY MS. KELLEY:
 14 Q. Were there any other police people
 15 present in the room at that time?
 16 A. There was a Boston -- a detective
 17 from the Boston Police homicide department,
 18 homicide division.
 19 Q. Was he there in connection with the
 20 homicide you were working on?
 21 A. That's correct.
 22 Q. What was his name?
 23 A. I've been trying to remember, but I
 24 don't. It should be on my autopsy report.

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1 MS. KELLEY: Can we go off
 2 the record for a second?
 3 (Discussion off the record).
 4 MS. KELLEY: And I want
 5 this to be part of the representation.
 6 Off the record, Doctor Philip just
 7 testified to the identity of the person
 8 whose body he was autopsying at that time.
 9 BY MS. KELLEY:
 10 Q. Did you retain a copy of the
 11 autopsy report for your records, Doctor?
 12 A. No, I did not.
 13 Q. And have you seen a copy of that
 14 autopsy report since you left the Medical
 15 Examiner's Office?
 16 A. No, I have not.
 17 Q. I'm sorry. What was the name of
 18 the person you said stuck her head in and
 19 asked you to sign the death certificate?
 20 A. Leslie Ward.
 21 Q. Okay. Did you say anything to
 22 Leslie?
 23 A. I told her that she would have to
 24 ask the funeral home to wait about an

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1 hour, at which point I would stop the
 2 autopsy and come upstairs and sign it.
 3 Q. Did she make any response to that?
 4 A. She left the autopsy room.
 5 Q. What happened next?
 6 A. When she came in, I was working on
 7 the neck of this homicide victim, and
 8 subsequently I cleaned up my gloves and
 9 all that and was picking up either my
 10 camera or formalin for taking histology
 11 when the -- Leslie's supervisor poked her
 12 head into the autopsy room.
 13 Q. What was her name?
 14 A. Deirdre Ward, no relation.
 15 Q. And who is Kathleen Taylor?
 16 A. Kathleen Taylor is a technical
 17 supervisor of the technicians who assist
 18 us.
 19 Q. Is she physically located right
 20 next to the autopsy room?
 21 A. She was in what is called the annex
 22 or the office attached to the autopsy
 23 room.
 24 Q. Was it Kathleen Taylor who actually



<p style="text-align: center;">Page 173</p> <p>1 opened the door to the autopsy room when 2 Deirdre Ward came down? 3 A. It was Deirdre Ward. 4 Q. Okay. Was Kathleen Taylor present? 5 A. In the annex, yes. 6 Q. How far away was she from where you 7 and Deirdre were? 8 A. Was standing behind Deirdre. 9 Q. How far behind her? 10 A. Feet, two feet. 11 Q. Oh, so she was standing right next 12 to her? 13 A. Right. 14 Q. Okay. So Deirdre comes in and 15 opens the door; is that correct? 16 A. That's correct. 17 Q. And how far were you from the door? 18 A. From the stapler to where you are. 19 Q. Well, I'm not very good at 20 distances, but would you say you were more 21 than six feet? 22 A. Four or five feet. 23 Q. Four or five feet? 24 A. Four or five feet.</p>	<p style="text-align: center;">Page 174</p> <p>1 Q. And were you facing the door? 2 A. Yes. I had just turned after 3 picking up something. 4 Q. And -- I'm sorry, you said you had 5 just picked something up? 6 A. Yes. 7 Q. What had you just picked up? 8 A. A jar of formalin. 9 Q. What's that? 10 A. It's a preservative. 11 Q. Were you still wearing your gloves? 12 A. Clean gloves. 13 Q. Excuse me? 14 A. Clean gloves. 15 Q. Had you just changed your gloves? 16 A. Yes. 17 Q. So you were standing four or five 18 feet from the door wearing clean gloves 19 when the door opens by Deirdre, right? 20 A. Correct. 21 Q. Did she say anything to you? 22 A. She said, "John wants you to sign 23 certificate now." 24 Q. Did you say anything back?</p>
<p style="text-align: center;">Page 175</p> <p>1 A. I just took the certificate. 2 Q. Took it out of Deirdre's hand? 3 A. Correct. 4 Q. Into your clean glove? 5 A. Yes. 6 Q. And what did you do next? 7 A. I took it to the side counter. 8 Q. Where's that located vis-a-vis the 9 door? 10 A. About six feet away. 11 Q. So if Deirdre's standing at the 12 door, is the counter to her left or her 13 right or straight ahead? 14 A. If she's standing at the door, the 15 counter is to her left. 16 Q. On a wall that's the same wall with 17 the door? 18 A. Yes. 19 Q. And about how far away from Deirdre 20 were you when you -- Strike that. 21 You said you took the certificate 22 to the side counter; is that correct? 23 A. Yes. 24 Q. And did you put it down on the</p>	<p style="text-align: center;">Page 176</p> <p>1 counter? 2 A. Yes. 3 Q. Was the counter clean? 4 A. Yes. 5 Q. And at the point where you put the 6 certificate down on the counter, about how 7 far was the certificate from the door? 8 A. Certificate from the door was about 9 six feet. 10 Q. And then at that point you signed 11 the death certificate. 12 A. That's correct. 13 Q. Where did you get a pen or a 14 pencil from? 15 A. I had my pen, papers, autopsy 16 notes, camera kept on that side counter. 17 Q. And then what did you do? 18 A. Just then, Edward Doyon, who was 19 opening the head of the body that I was 20 working on, called me to show me 21 something. 22 Q. And what happened next? 23 A. So I walked up with the certificate 24 towards the body and a splash of blood</p>



<p style="text-align: center;">Page 177</p> <p>1 fell on the certificate. 2 Q. Did you see that happen? 3 A. I saw -- Yes. 4 Q. What did you do next? 5 A. I tried to wipe it away. 6 Q. With what? 7 A. With my glove. 8 Q. And what happened? 9 A. Realized it was a mess. 10 Q. What happened next? 11 A. Left it back on the side counter. 12 Q. And then what happened? 13 A. And continued with the autopsy. 14 Q. Now, during all this time is 15 Deirdre still standing in the doorway? 16 A. No. 17 Q. Where was she? 18 A. In the annex. 19 Q. So the door was closed? 20 A. In the office. Yes. 21 Q. And she was outside. 22 A. Yes. 23 Q. At some point, did she come back in 24 or talk to you in any way?</p>	<p style="text-align: center;">Page 178</p> <p>1 A. At some point, Kathleen Taylor came 2 inside the autopsy room. 3 Q. And what happened next? 4 A. Picked up the death certificate, 5 scrutinized it and walked away. 6 Q. Holding the death certificate? 7 A. Yes. 8 Q. Was there any conversation at all 9 between you and Kathleen Taylor during 10 that time? 11 A. No. 12 Q. So you didn't say, Stop, it's all 13 bloody, anything like that? 14 A. I was concentrated on a homicide 15 autopsy. 16 Q. But you did see her come in and 17 pick it up? 18 A. Through the corner of my eye. 19 Q. Well, then I repeat. You didn't 20 say anything to her about don't pick that 21 up, it's a mess? 22 A. I didn't. 23 Q. And she didn't say anything to you 24 after scrutinizing it and seeing blood all</p>
<p style="text-align: center;">Page 179</p> <p>1 over it? 2 A. She didn't. 3 Q. When Kathleen Taylor came in the 4 room, was she wearing one of those Tyvek 5 suits? 6 A. No. 7 Q. Was she wearing gloves? 8 A. I don't recall. 9 Q. As far as you can recall, do you 10 recall her wearing any protective clothing? 11 A. No. 12 Q. As a forensic pathologist, Doctor, 13 do you consider that it is or it can be 14 dangerous for someone not wearing 15 protective clothing to handle bloodstained 16 items? 17 MR. SHARP: Objection. Go 18 ahead. 19 A. I didn't ask her to pick up the 20 death certificate. 21 Q. Do you consider it dangerous for 22 people not wearing protective clothing to 23 handle bloodstained items? 24 A. Can you repeat that question?</p>	<p style="text-align: center;">Page 180</p> <p>1 MS. KELLEY: Could you 2 repeat that, please? 3 (Record read). 4 A. I do. 5 Q. And especially where the blood is 6 the blood of a homicide victim? 7 A. Yes. 8 Q. Did you consider that Kathleen 9 Taylor was in any danger as a result of 10 handling that bloodstained certificate? 11 A. As I said, I was concentrating on a 12 homicide autopsy. Through the corner of 13 my eye, I saw her coming and taking 14 something. My focus was the homicide 15 autopsy, not what she was doing. 16 Q. Okay. Understanding that you 17 weren't focusing on Kathleen Taylor, as 18 she left the room without protective 19 clothing handling a bloodstained death 20 certificate from a homicide victim, did it 21 cross your mind that this could be a 22 dangerous thing for Kathleen Taylor to be 23 doing? 24 MR. SHARP: Objection. You</p>



<p style="text-align: center;">Page 181</p> <p>1 can answer, if you can.</p> <p>2 A. Well, she's an adult, compos</p> <p>3 mentis, and I thought if she felt there</p> <p>4 was anything dangerous about it she should</p> <p>5 not have done it. I was not holding a</p> <p>6 gun to her head and say take it away.</p> <p>7 Q. I take it at the very least you</p> <p>8 wouldn't have recommended that she do</p> <p>9 that, would you, Doctor?</p> <p>10 MR. SHARP: Objection. You</p> <p>11 can answer it, if you can.</p> <p>12 A. That's correct.</p> <p>13 MS. KELLEY: Could we have</p> <p>14 this marked as the next exhibit, please?</p> <p>15 (Exhibit-23, Death</p> <p>16 Certificate Bates Stamped AGO-0001, marked</p> <p>17 for identification).</p> <p>18 BY MS. KELLEY:</p> <p>19 Q. Doctor, the document that's been</p> <p>20 put in front of you is Exhibit 23. Do</p> <p>21 you see that?</p> <p>22 A. (Witness viewing document). Yes.</p> <p>23 Q. Do you know what that document is?</p> <p>24 A. (Witness viewing document). This</p>	<p style="text-align: center;">Page 182</p> <p>1 is a copy of the death certificate that</p> <p>2 got splashed with blood.</p> <p>3 Q. And understanding it's only a copy,</p> <p>4 does the pattern of the blood stain on the</p> <p>5 death certificate appear to you the same</p> <p>6 as the blood stain that was on the death</p> <p>7 certificate when you last saw it in the</p> <p>8 autopsy room?</p> <p>9 A. (Witness viewing document). Yes.</p> <p>10 Q. Looking at the blood stain, Doctor,</p> <p>11 down at the very bottom does it appear</p> <p>12 that that's some sort of a fingerprint?</p> <p>13 MR. SHARP: Objection.</p> <p>14 BY MS. KELLEY:</p> <p>15 Q. If you can say.</p> <p>16 A. (Witness viewing document). No, I</p> <p>17 cannot.</p> <p>18 Q. Okay. So it's your testimony that</p> <p>19 it is the result of a blood spatter onto</p> <p>20 the death certificate; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Did anything happen to the blood</p> <p>23 spatter when you tried to wipe it clean</p> <p>24 with your glove?</p>
<p style="text-align: center;">Page 183</p> <p>1 A. It spread.</p> <p>2 Q. Excuse me?</p> <p>3 A. It spread.</p> <p>4 Q. Okay. So this that we're looking</p> <p>5 at here shows spreading from where you</p> <p>6 touched it --</p> <p>7 MR. SHARP: Objection.</p> <p>8 Q. -- with your glove?</p> <p>9 MR. SHARP: Answer, if you</p> <p>10 can.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And if you can, Doctor, and</p> <p>13 I realize you may not be able to, was</p> <p>14 this something that you went left to right</p> <p>15 or right to left or up and down or -- how</p> <p>16 did you spread the blood around with your</p> <p>17 gloved hand?</p> <p>18 A. I don't think I can answer that.</p> <p>19 Q. After you saw Kathleen Taylor leave</p> <p>20 the autopsy room holding the death</p> <p>21 certificate --</p> <p>22 MR. SHARP: Objection.</p> <p>23 MS. KELLEY: I'm sorry. Is</p> <p>24 that a mischaracterization of his</p>	<p style="text-align: center;">Page 184</p> <p>1 testimony?</p> <p>2 MR. SHARP: I believe it</p> <p>3 is.</p> <p>4 BY MS. KELLEY:</p> <p>5 Q. Okay. You can respond if you feel</p> <p>6 that it's a mischaracterization, Doctor.</p> <p>7 After you saw Kathleen Taylor leave</p> <p>8 the autopsy room holding the death</p> <p>9 certificate, what's the next thing that</p> <p>10 you recall that happened with respect to</p> <p>11 that incident?</p> <p>12 MR. SHARP: Objection.</p> <p>13 Answer, if you can.</p> <p>14 A. I focused back on the homicide -- I</p> <p>15 continued with the homicide autopsy.</p> <p>16 Q. And what happened next?</p> <p>17 A. I went up -- My meeting at 1:30</p> <p>18 was postponed 'til two, so I had lunch,</p> <p>19 had my meeting.</p> <p>20 Q. Meeting with whom?</p> <p>21 A. Sheila Caulkin.</p> <p>22 Q. About something unrelated to this</p> <p>23 death certificate?</p> <p>24 A. Another homicide.</p>



47 (Pages 185 to 188)

<p style="text-align: center;">Page 185</p> <p>1 Q. And what happened next?</p> <p>2 A. Went down and finished the homicide</p> <p>3 that I was doing.</p> <p>4 Q. About what time did you finish</p> <p>5 that?</p> <p>6 A. Three or four o'clock.</p> <p>7 Q. And at some point, did you come to</p> <p>8 learn some additional information or did</p> <p>9 anyone speak to you about the incident</p> <p>10 with the death certificate?</p> <p>11 A. The next I heard of it was February</p> <p>12 25th.</p> <p>13 Q. So this incident with Kathleen</p> <p>14 Taylor and the death certificate happened</p> <p>15 on February 13th of 2004; is that correct?</p> <p>16 A. Correct.</p> <p>17 Q. And between February 13th of 2004,</p> <p>18 and February 25th, you didn't speak to</p> <p>19 anybody about it?</p> <p>20 A. No.</p> <p>21 Q. And when you say you next heard of</p> <p>22 it on February 25th, what happened on that</p> <p>23 day?</p> <p>24 A. That was the day I was called in</p>	<p style="text-align: center;">Page 186</p> <p>1 to John Cronin's office.</p> <p>2 Q. How did he contact you to come to</p> <p>3 his office?</p> <p>4 A. He came to my office and asked me</p> <p>5 to come to his office.</p> <p>6 Q. And did you do that?</p> <p>7 A. Yes, I did.</p> <p>8 Q. And who was there?</p> <p>9 A. After I went into the office,</p> <p>10 Lieutenant Platt came in.</p> <p>11 Q. I'm sorry, who?</p> <p>12 A. Lieutenant Edith Platt.</p> <p>13 Q. Oh, okay. Anybody else?</p> <p>14 A. No.</p> <p>15 Q. So it was just you and John Cronin</p> <p>16 and Edith Platt?</p> <p>17 A. That's correct.</p> <p>18 Q. And can you describe as much as you</p> <p>19 can recall about what was said and by whom</p> <p>20 during that meeting?</p> <p>21 A. John Cronin mentioned that there</p> <p>22 was an episode at which blood stains fell</p> <p>23 on a death certificate.</p> <p>24 Q. Did you know what he was talking</p>
<p style="text-align: center;">Page 187</p> <p>1 about?</p> <p>2 A. Vaguely.</p> <p>3 Q. You had some vague knowledge of</p> <p>4 what he might be talking about?</p> <p>5 A. He briefed me about the case.</p> <p>6 Q. Well, I'm asking you as much as you</p> <p>7 can recall about what Mr. Cronin told you.</p> <p>8 What did he tell you?</p> <p>9 A. He said there was a death</p> <p>10 certificate that was sent to the autopsy</p> <p>11 room for signature and when it was</p> <p>12 received back it was stained with blood.</p> <p>13 Q. Did he say anything else?</p> <p>14 A. And I asked him what did he expect,</p> <p>15 to be stained by Chanel No. 5.</p> <p>16 Q. What did he expect, that it would</p> <p>17 be --</p> <p>18 A. That it would be stained with.</p> <p>19 Q. And did he respond to that?</p> <p>20 A. He did say that he was going to</p> <p>21 issue a one-day suspension.</p> <p>22 Q. Do you recall anything else that</p> <p>23 was said during that meeting?</p> <p>24 A. He said there were four signed</p>	<p style="text-align: center;">Page 188</p> <p>1 witness statements.</p> <p>2 Q. Did he show them to you?</p> <p>3 A. No.</p> <p>4 Q. Did he tell you whose statements</p> <p>5 they were?</p> <p>6 A. No.</p> <p>7 Q. Did you ask?</p> <p>8 A. He said there was one uniformed</p> <p>9 state police officer.</p> <p>10 Q. Did he say anybody else?</p> <p>11 A. And I said, "If there are four</p> <p>12 witness statements, they are lying."</p> <p>13 Q. Did you know yet what was even in</p> <p>14 the statements?</p> <p>15 A. No.</p> <p>16 Q. How did you know they were lying?</p> <p>17 A. If they said that I did something</p> <p>18 deliberately, they had to be lying.</p> <p>19 Q. Okay. Well, maybe we have to back</p> <p>20 up. Did John Cronin tell you that the</p> <p>21 witnesses said you had done something</p> <p>22 deliberately?</p> <p>23 A. That's what he insinuated.</p> <p>24 Q. Is that what he said?</p>



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1 A. That's what he insinuated.
2 Q. Well, when you say insinuate, what
3 were the words that he used that led you
4 to believe that he was saying that you did
5 something deliberately?
6 A. I exposed -- I signed a death
7 certificate and exposed a technician to
8 blood products.
9 Q. Are there any policies and
10 procedures in the Medical Examiner's Office
11 about exposing people not wearing
12 protective clothing to blood products?
13 A. If there is, I have not been given
14 that.
15 Q. Is it a matter of good practice as
16 a pathologist not to expose people not
17 wearing protective clothing to blood
18 products?
19 A. (Witness gestured).
20 Q. You have no opinion?
21 A. No.
22 Q. No, you don't have an opinion or --
23 A. I'm not going to answer that
24 question.

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1 Q. Why not?
2 A. I explained it to you. I didn't
3 tell her to pick that up. I was
4 concentrating on a homicide autopsy. She
5 came in, did something, went out. What am
6 I supposed to do?
7 Q. I'm asking you, Doctor, not even in
8 connection with this case. Just as a
9 matter --
10 A. What am I supposed to do at that
11 point?
12 Q. As a matter of being a forensic
13 pathologist, is it your understanding that
14 generally speaking forensic pathologists
15 take pains to avoid having people handle
16 blood products unless they're wear
17 protective clothing?
18 A. Could I --
19 MR. SHARP: Objection.
20 Answer it if you can.
21 A. It was the technician's
22 responsibility to wear protective clothing.
23 I don't have to teach her that, she's a
24 technical supervisor.

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1 Q. So John Cronin told you in this
2 meeting that you had signed a death
3 certificate and had exposed someone to
4 blood products.
5 A. Correct.
6 Q. Okay. Did he say anything else
7 about how that had occurred?
8 A. No.
9 Q. And he told you that four people
10 had signed witness statements to that
11 effect?
12 A. Yes.
13 Q. And you said if there are four
14 witnesses, they're lying.
15 A. Correct.
16 Q. What else did you say, if anything?
17 A. He said, "I resent your response,"
18 and he gave me the letter of suspension.
19 Q. What response was it of yours that
20 he resented?
21 A. That they were lying. And I got up
22 to leave the meeting.
23 Q. I'm sorry?
24 A. And I got up to leave the meeting.

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1 Q. And left or --
2 A. No.
3 Q. -- did something else happen?
4 A. Then he gave me the letter.
5 Q. And you're now talking about the
6 letter about the one-day suspension?
7 A. Correct.
8 Q. And did Edith Platt say anything
9 during this meeting?
10 A. No.
11 MS. KELLEY: Could we have
12 this marked as the next exhibit?
13 (Exhibit-24, February 25,
14 2004, Memorandum Bates Stamped AGO-0024,
15 marked for identification).
16 BY MS. KELLEY:
17 Q. Doctor, do you have in front of you
18 what's been marked as Exhibit Number 24 to
19 this deposition?
20 A. (Witness viewing document). Yes, I
21 do.
22 Q. Is that a copy of the suspension
23 letter that you received in your meeting
24 with John Cronin on February 25th, 2004?



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1 A. That's correct.
 2 Q. The last sentence of this document
 3 says, "Any future occurrence of
 4 unprofessional or unacceptable behavior
 5 will result in immediate termination of
 6 your contracted services pursuant to the
 7 terms and conditions of the contract you
 8 have endorsed with this office." Did I
 9 read that correctly?
 10 A. (Witness viewing document). Yes.
 11 Q. As of February 25th, 2004, did you
 12 understand that any further conduct which
 13 the office deemed to be unprofessional
 14 might subject you to a termination of your
 15 contract?
 16 A. Yes.
 17 Q. And you also understood, as of
 18 February 25th, that you were going to be
 19 serving one suspended day?
 20 A. That's correct.
 21 Q. On March 4th?
 22 A. That's correct.
 23 Q. Did you have any discussion with
 24 John Cronin about why the day of

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1 suspension was going to be March 4th?
 2 A. No, I didn't.
 3 Q. That was just the date that was in
 4 the letter that he provided to you?
 5 A. Yes.
 6 Q. What did you do after that meeting?
 7 A. I went back to my office and
 8 continued with whatever work I was doing
 9 and left later that day.
 10 Q. After that meeting, did you have
 11 any discussions with anybody about the
 12 occurrences of February 13th?
 13 A. Yes, I did.
 14 Q. Who did you talk to?
 15 A. William Zane.
 16 Q. Did you talk to him on the 25th?
 17 A. One of those days after that.
 18 Q. And what did you say to Doctor Zane
 19 and what did he say to you?
 20 A. He said, they treated us as if --
 21 they treat this place as if it's a police
 22 academy.
 23 Q. What did he mean by that?
 24 A. That --

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1 MR. SHARP: Objection.
 2 BY MS. KELLEY:
 3 Q. What was your understanding of what
 4 he meant by that?
 5 A. That we were being treated as
 6 recruits at a police academy.
 7 Q. Did Doctor Zane say anything about
 8 the fact that someone had been exposed to
 9 blood products?
 10 A. No.
 11 Q. Did you tell him your version of
 12 events?
 13 A. Yes.
 14 Q. Did you say that John Cronin and
 15 others were saying that something different
 16 happened?
 17 A. I just gave him my version.
 18 Q. Did Doctor Zane indicate to you
 19 that he had heard any other information
 20 about that incident from anybody else?
 21 A. No. But he commented that there
 22 were twice the number of police officers
 23 to medical examiners in the office.
 24 Q. Since that incident, you mean?

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1 A. There always has been twice the
 2 number of police officers compared to
 3 medical examiners in the office.
 4 Q. I think you had testified
 5 previously at some point you retained
 6 Attorney Sharp's law firm after this
 7 meeting of February 25th; is that correct?
 8 A. That's correct.
 9 Q. Do you know what day you retained
 10 them?
 11 A. I called Elaine Sharp later that
 12 day on my way home.
 13 Q. Had you ever had any prior dealings
 14 with Elaine Sharp?
 15 MR. SHARP: Objection.
 16 A. I did tell you that I had some
 17 dealing with her in mid October.
 18 Q. Okay. Other than Elaine Sharp or
 19 anybody from her law office, did you have
 20 any discussions about the incident of
 21 February 13th with anybody else other than
 22 Doctor Zane after the Cronin meeting?
 23 A. No.
 24 Q. Now, at around that same time, were



50 (Pages 197 to 200)

<p>Page 197</p> <p>1 you involved with the autopsy of a 2 particular child who had been killed? 3 A. I was working on the -- It was 4 much earlier, I believe in January, that I 5 performed the autopsy on the child. 6 Q. Okay. And for purpose -- And this 7 was a case that you were working on with 8 a particular district attorney, Louis 9 Armistead? 10 A. Correct. 11 Q. Is that correct? 12 MS. KELLEY: A-R-M-I 13 -S-T-E-A-D. 14 And I guess for purposes of this, 15 can we refer to this as the -- I don't 16 know, what case? 17 Let's just call this the Patient Y 18 case. Is that agreeable just for purposes 19 of this deposition? 20 MR. SHARP: How about the 21 child case? 22 MS. KELLEY: The child case? 23 MR. SHARP: Yeah. 24 MS. KELLEY: Okay. We'll</p>	<p>Page 198</p> <p>1 call it the child case. Can you mark this 2 as the next exhibit, these three pages, 3 please? 4 (Exhibit-25, Series of 5 E-mails Bates Stamped AGO-0691 through 6 AGO-0693, marked for identification). 7 BY MS. KELLEY: 8 Q. Doctor, we've now put in front of 9 you what's been marked Exhibit 25 to this 10 deposition. Do you have that? 11 A. (Witness viewing document). Yeah. 12 Q. And just generally these three 13 pages are a series of e-mails; is that 14 fair to say? 15 A. (Witness viewing document). Yes. 16 Q. Okay. Now, with respect to the 17 first page of Exhibit Number 25, down at 18 the bottom of that page there's a message 19 from Louis Armistead to you dated February 20 29th, 2004; is that correct? 21 A. (Witness viewing document). Yes. 22 Q. And that's with respect to the 23 child case that we're now talking about? 24 A. Correct.</p>
<p>Page 199</p> <p>1 Q. You had done the autopsy some 2 period of time before this; is that 3 correct? 4 A. Yes. 5 Q. But it was still a live case at 6 the DA's office. 7 A. Yes. 8 Q. Was this a homicide case? 9 A. Yes. 10 Q. Or a potential homicide? 11 A. It was a homicide. 12 Q. Were you working extensively with 13 Attorney Armistead on the case? 14 A. He was the DA -- Assistant DA 15 assigned to the case. 16 Q. Had you worked with him very much 17 on this particular case? 18 A. I was called initially to testify 19 to grand jury on this case. 20 Q. When was that? 21 A. I don't recall the dates, but that 22 information should be available in the 23 files. 24 Q. Now, on March 1st, 2004, you</p>	<p>Page 200</p> <p>1 responded to his e-mail; is that correct? 2 A. March 1st, yes. 3 Q. And your response is at the top of 4 the first page of Exhibit 25; is that 5 correct? 6 A. (Witness viewing document). Yes. 7 Q. Now, the -- In your e-mail to Louis 8 Armistead, the second paragraph of that 9 e-mail, you state, "There are some other 10 very bizarre events going on in the office 11 with weird accusations being leveled 12 against me." Do you see that? 13 A. (Witness viewing document). 14 Correct. 15 Q. "So when you arrange with Jackie 16 Faherty to hand over the file to me, 17 please insist that a witness be present in 18 the room to prevent weird charges of 19 having urinated on the chart or farted 20 while working on the chart being leveled 21 against me by the head honcho who runs 22 this agency." Did I read that correctly? 23 A. (Witness viewing document). Yes. 24 Q. What was your purpose in making</p>



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1 these comments to Louis Armistead?
 2 A. I was trying to get -- recruit
 3 another person to be a witness while I was
 4 working on the -- on the case.
 5 Q. Why?
 6 A. My request to having a witness be
 7 present while I was working on the case
 8 was denied previously.
 9 Q. So you had -- Before you even wrote
 10 this e-mail, you had requested a witness
 11 to be involved with the child case?
 12 A. Yes.
 13 Q. Who had you made that request of?
 14 A. Somebody came and asked me that I
 15 need to finish the report because there
 16 was a DA asking for it. And I said I
 17 will if there's a witness while I'm
 18 working in the case.
 19 Q. Who had asked you to finish the
 20 report?
 21 A. I don't recall.
 22 Q. Why did you feel you needed a
 23 witness to watch you finish the report?
 24 A. Because the climate that was at

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1 work -- the climate that was enforced at
 2 the workplace.
 3 Q. Other than the incident with the
 4 death certificate which we've already
 5 discussed, had you ever been accused of
 6 doing anything else with respect to
 7 autopsy reports or death certificates that
 8 would require a witness to be present to
 9 protect you?
 10 A. No.
 11 Q. Did you have any honest belief that
 12 anyone was going to accuse you of
 13 urinating on a chart or farting while
 14 working on a chart when you wrote this
 15 letter to Louis Armistead?
 16 A. At that point, I did believe
 17 anything was possible.
 18 Q. And who did you think was going to
 19 make these accusations against you?
 20 A. Same person who accused me of
 21 exposing a person to blood products.
 22 Q. John Cronin?
 23 A. (Witness gestured).
 24 Q. Is that who you're talking about?

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1 A. Yes.
 2 Q. What about the four witnesses who
 3 all accused you of the same thing?
 4 A. Them, too.
 5 Q. So John Cronin, Deirdre Ward,
 6 Kathleen Taylor, Leslie Ward and Sergeant
 7 L'Italien all were people who might
 8 wrongly accuse you of bizarre things?
 9 A. No.
 10 MR. SHARP: Objection.
 11 Answer, if you can.
 12 A. All of them could be orchestrated
 13 to make an accusation that I was doing
 14 bizarre things like the previous episode
 15 had been orchestrated.
 16 Q. Is it your belief that John Cronin
 17 orchestrated the witness testimony of those
 18 four witnesses?
 19 A. Yes.
 20 Q. And encouraged them to lie about
 21 you?
 22 A. Yes.
 23 Q. And what do you base that on?
 24 A. Because all my suggestions were to

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1 improve working at the office were being
 2 prevented. I was being prevented from
 3 helping make changes in the office, and
 4 then there was this accusation that I put
 5 blood products on the death certificate
 6 and exposed somebody to it.
 7 Q. And you think that these people
 8 would all -- including a state police
 9 officer would all lie because John Cronin
 10 asked them to?
 11 A. Well, I didn't have their
 12 statements so I couldn't make judgments
 13 about them. But it looked like they had
 14 been orchestrated to produce statements
 15 accusing me from the information that I
 16 had to go on.
 17 Q. You've now seen the statements; is
 18 that correct?
 19 A. Yes.
 20 Q. Do you still believe that all four
 21 of those witnesses are lying?
 22 A. The --
 23 MR. SHARP: Objection.
 24 Answer, if you can.



<p>Page 205</p> <p>1 A. The witness statements don't make 2 -- don't shed light on the situation of 3 being exposed to blood products. 4 Q. Well, you're aware that the witness 5 statements are inconsistent with your 6 version of events in a number of 7 significant ways; is that fair to say? 8 MR. SHARP: Objection. 9 A. They are inconsistent within 10 themselves. They are contradicting each 11 other in those statements. 12 Q. Don't they all consistently 13 indicate that you handed the death 14 certificate to someone or that you put it 15 through the door? 16 A. They don't consistently do that. 17 Q. So I guess my question is, now that 18 you've read the death certificate -- the 19 witness statements, is it your impression 20 that John Cronin encouraged all those 21 people to lie or is it your impression 22 that those people are telling inconsistent 23 stories? 24 A. It's my contention that John Cronin</p>	<p>Page 206</p> <p>1 conveyed to me incorrect information about 2 their statements. 3 Q. So you no longer think that they 4 were lying? 5 A. No. 6 Q. Is that correct? 7 A. What is correct? 8 Q. Do you -- At this time, having seen 9 the witness statements, do you believe 10 that those witnesses were all lying? 11 A. I don't believe they were lying. 12 Q. Did you have any understanding when 13 you wrote this e-mail that's the first 14 page of Exhibit Number 25 to Louis 15 Armistead, that this was something that 16 could conceivably come out in discovery to 17 attorneys in the criminal case? 18 A. I did think it could be possible. 19 Q. Okay. You understand that your 20 communications with the DA's office may 21 sometimes be made available in open court; 22 is that fair to say? 23 A. Yes. 24 Q. So knowing that, did you think that</p>
<p>Page 207</p> <p>1 this was a professional way to conduct 2 yourself, including this information in the 3 second paragraph of your March 1st, 2004, 4 e-mail? 5 A. I didn't. 6 Q. Didn't what? 7 A. Think it was unprofessional. 8 Q. Didn't think it was unprofessional? 9 A. Yes. 10 Q. So you thought it was professional 11 to make those comments; is that correct? 12 A. You're saying the same thing, 13 double negative or positive. 14 Q. Okay. So is that correct that it 15 was a professional thing to do to make 16 those comments? 17 A. It's not a reflection of 18 professional competence. It's got nothing 19 to do with the professional work that I'm 20 doing. 21 Q. How about professional judgment? 22 A. I don't see -- 23 MR. SHARP: Objection. 24 A. -- it as an issue.</p>	<p>Page 208</p> <p>1 Q. Well, that's what I want to know, 2 Doctor. Do you believe that this -- these 3 comments that you make in your March 1st, 4 2004, e-mail to Louis Armistead evidence 5 professional -- good professional judgment 6 on your part? 7 A. It is no reflection of my 8 competence -- professional competence to do 9 an autopsy or testify about it in court. 10 Q. The fact that you made these 11 comments to Louis Armistead in a document 12 that you knew could come out in discovery, 13 do you consider that these comments 14 reflect good and appropriate professional 15 judgment on your part? 16 A. I didn't think this would have any 17 bearing in the case so it didn't matter -- 18 it was not any expression of my 19 professional competence. 20 Q. Okay. But I haven't been asking 21 you about your competence, have I, Doctor? 22 A. Or my professional behavior. 23 Q. Oh. So you don't think it in any 24 way reflects on your professional behavior</p>



<p style="text-align: center;">Page 209</p> <p>1 either -- 2 A. Yes. 3 Q. -- is that correct? That's 4 correct? 5 A. Yes. 6 Q. And you understand that John Cronin 7 and others at the Medical Examiner's 8 Office disagreed with you on that. 9 MR. SHARP: Objection. 10 Answer it, if you know what they thought. 11 A. These are kinds of comments that 12 John Cronin and some others in the office 13 frequently make. It's not my style of 14 language. I was just copying them in this 15 e-mail. 16 Q. Did they make those comments to DAs 17 in open criminal cases? 18 A. I don't know who they made the 19 comments to, but they made these comments 20 in front of me. 21 Q. Once you sent this e-mail to Louis 22 Armistead, did he respond to it? 23 A. I think he called me on the phone. 24 Q. What did he say?</p>	<p style="text-align: center;">Page 210</p> <p>1 A. He said, " Boy, your workplace is 2 much more bizarre than ours." 3 Q. Did he say anything else? 4 A. He said he'd try and speak to 5 Jackie Faherty and see that the case was 6 completed expeditiously. 7 Q. Did he say he was going to try to 8 get you a witness who would sit with you 9 the whole time? 10 A. He didn't say that, but he was 11 going to try and generate cooperation for 12 me to finish the certificate -- the 13 autopsy report. 14 Q. Other than asking for a witness, 15 were you indicating that there was a lack 16 of cooperation that was hindering your 17 ability to finish the autopsy? 18 A. No, it was the witness issue. 19 Q. So it was your understanding that 20 Louis Armistead intended to work it out so 21 that you would have a witness? 22 A. Yes. 23 Q. What was the next thing that you 24 heard or learned about this incident?</p>
<p style="text-align: center;">Page 211</p> <p>1 A. Someone left a copy of the medical 2 records on my chair while I was doing 3 another autopsy or was downstairs in the 4 autopsy room doing something. 5 Q. And I take it you needed those 6 records in order to complete your report. 7 A. Correct. 8 Q. Were you upset because someone had 9 left a copy of the file on your chair? 10 A. Yes. 11 Q. Why? 12 A. Because I'd been searching for 13 these records for the last four days, and 14 when I wanted to work on the records I 15 wanted a witness and that was not 16 forthcoming. 17 Q. How had you been searching for the 18 records? What did you do to search for 19 them? 20 A. The records are stored in a 21 specific area in the office. And anybody 22 who takes a medical record out from that 23 area is supposed to fill out a card which 24 indicates who is the person taking the</p>	<p style="text-align: center;">Page 212</p> <p>1 records, and there was no indication who 2 had taken the records. 3 I kept asking several people, and 4 then I was told that initially it was in 5 Lieutenant Platt's office for four days 6 and then Jackie Faherty's office for three 7 days. 8 Q. Now, there is, on the second page 9 of Exhibit 25, an e-mail from Jackie 10 Faherty to you dated March 2nd, 2004. Do 11 you see that? 12 A. (Witness viewing document). Yes. 13 Q. And she tells you that she left the 14 folder on your chair -- 15 A. Correct. 16 Q. -- with respect to this case; is 17 that correct? 18 A. Yes. 19 Q. Did you see the e-mail at around 20 the same time that you saw the file on 21 your chair? 22 A. Yes. 23 Q. Okay. But you were still upset 24 that she had left it there; is that</p>



<p style="text-align: center;">Page 213</p> <p>1 correct?</p> <p>2 A. I was not upset. I said -- I made</p> <p>3 a simple request for someone to come and</p> <p>4 be in the room while I work on that</p> <p>5 report.</p> <p>6 Q. So you expected one of the</p> <p>7 employees at the Medical Examiner's Office</p> <p>8 was going to sit in a room with you the</p> <p>9 whole time you worked on the report?</p> <p>10 A. Not the whole time. I just needed</p> <p>11 to verify a few things in the report.</p> <p>12 The report was ready. As I said here, I</p> <p>13 finalized the report on March 1st. I just</p> <p>14 needed to verify that some of the other</p> <p>15 documents were there and in place in the</p> <p>16 medical records, there were no</p> <p>17 inconsistencies, and I would have released</p> <p>18 the report. It was for a short while</p> <p>19 that I wanted someone in my office.</p> <p>20 Q. You then respond to Jackie Faherty</p> <p>21 with your own e-mail dated March 2nd; is</p> <p>22 that correct?</p> <p>23 A. Yes.</p> <p>24 Q. Again, on the second page of</p>	<p style="text-align: center;">Page 214</p> <p>1 Exhibit Number 25, you accuse someone of</p> <p>2 sneaking in and leaving the files on your</p> <p>3 chair; is that correct?</p> <p>4 A. I'm only reporting that somebody</p> <p>5 did that.</p> <p>6 Q. Okay. Then you say, "In order to</p> <p>7 avoid any contamination of the file, they</p> <p>8 have been left out on the table in the</p> <p>9 corridor 'til a witness can be arranged."</p> <p>10 Is that correct?</p> <p>11 A. (Witness viewing document).</p> <p>12 Correct.</p> <p>13 Q. So basically, you're saying you're</p> <p>14 not going to work on the report, even</p> <p>15 though you have the file materials,</p> <p>16 because you don't have a witness sitting</p> <p>17 next to you; is that correct?</p> <p>18 A. Until a witness is provided, yes.</p> <p>19 Q. So you're just going to leave the</p> <p>20 report papers out in the hall until</p> <p>21 somebody comes and acts as your witness?</p> <p>22 A. On my secretary's table until</p> <p>23 somebody comes in as a witness.</p> <p>24 Q. Okay. Actually, looking at the</p>
<p style="text-align: center;">Page 215</p> <p>1 bottom of that same page, Doctor, there's</p> <p>2 an e-mail from Jackie Faherty to you dated</p> <p>3 February 25th where she actually tells you</p> <p>4 that the file is in her office, doesn't</p> <p>5 she?</p> <p>6 A. (Witness viewing document). Yes.</p> <p>7 Q. So at least as of the 25th, instead</p> <p>8 of looking for it everywhere, you knew it</p> <p>9 was in Jackie Faherty's office; is that</p> <p>10 fair to say?</p> <p>11 A. Right. And she went on vacation</p> <p>12 for four days.</p> <p>13 Q. But you knew where it was. Rather</p> <p>14 than looking all over creation for it, you</p> <p>15 knew it was in her office; is that</p> <p>16 correct?</p> <p>17 A. Right. That's how I -- I knew she</p> <p>18 had it.</p> <p>19 Q. And then on the third page of</p> <p>20 Exhibit Number 25, you e-mail Louis</p> <p>21 Armistead and advise him that you have now</p> <p>22 completed the autopsy report; is that</p> <p>23 correct?</p> <p>24 A. (Witness viewing document). Yes.</p>	<p style="text-align: center;">Page 216</p> <p>1 Q. Now, Doctor, as we said, this first</p> <p>2 page of Exhibit Number 25, you receive an</p> <p>3 e-mail from Louis Armistead on February</p> <p>4 29th and you e-mail him on March 1st; is</p> <p>5 that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Now, also on March 1st, did you</p> <p>8 prepare two letters to be sent to Governor</p> <p>9 Romney?</p> <p>10 A. Yes.</p> <p>11 MS. KELLEY: Could we have</p> <p>12 these marked as the next two exhibits,</p> <p>13 please?</p> <p>14 (Exhibit-26, March 1, 2004,</p> <p>15 Letter Bates Stamped AGO-0002 through</p> <p>16 AGO-0007; Exhibit-27, March 1, 2004, Letter</p> <p>17 Bates Stamped AGO-0014 through AGO-0018,</p> <p>18 marked for identification).</p> <p>19 BY MS. KELLEY:</p> <p>20 Q. Okay, Doctor. First of all, the</p> <p>21 document that's in front of you that's</p> <p>22 been marked as Exhibit 26, do you have</p> <p>23 that?</p> <p>24 A. (Witness viewing document). Yes.</p>



<p style="text-align: center;">Page 217</p> <p>1 Q. And that's a letter to Governor 2 Romney from you dated March 1st, 2004; is 3 that correct? 4 A. (Witness viewing document). Yes. 5 Q. And it's Re problems at the Office 6 of the Chief Medical Examiner? 7 A. Yes. 8 Q. And the first page of that document 9 is a fax cover sheet; is that correct? 10 A. (Witness viewing document). 11 Correct. 12 Q. Now, with respect to Exhibit Number 13 26, when did you actually prepare this 14 letter? 15 A. Between the 25th of February and 16 1st of March, over several days. 17 Q. Why did you prepare it? 18 A. Because I felt that the situation 19 in the Medical Examiner's Office was not 20 improving. Despite several public 21 announcements to that and despite several 22 changes in administrators, things were only 23 getting worse and I felt it was time to 24 go public.</p>	<p style="text-align: center;">Page 218</p> <p>1 Q. Did your drafting of this letter 2 have anything to do with the fact that you 3 had just been suspended from your job for 4 a day? 5 A. No. Several parts of this letter 6 was written actually in July 2001 when I 7 left the Medical Examiner's Office itself. 8 Q. But you didn't finish the letter 9 and send it until March 1st of 2004, 10 right? 11 A. Yes. I was initially working on a 12 book form of the issues, and then we 13 decided that it would be -- we would make 14 one more attempt at getting attention by 15 informing the Governor. 16 Q. I'm sorry. When did you say you 17 had written part of this letter? 18 A. Before leaving for New York. 19 Q. In what year? 20 A. 2002. July 2002. 21 Q. Well, you left for New York in 22 2001; is that correct? 23 A. 2000 to 2001 -- 2002, June. 24 Q. Oh, okay. And was -- I take it</p>
<p style="text-align: center;">Page 219</p> <p>1 from your testimony it was your belief 2 that these problems at the Medical 3 Examiner's Office needed to be brought to 4 the public's attention. 5 A. Correct. 6 Q. But you chose not to bring it to 7 the public's attention in June of 2002 8 when you had written a lot of this letter; 9 is that right? 10 A. Yes. 11 Q. And that was because you were 12 planning to write a book? 13 A. No. I felt the added news stories 14 were not having any effect, so unless it 15 came out in a book form there would be no 16 impact. 17 Q. And what did you believe -- Strike 18 that. 19 What impact were you looking to 20 achieve by bringing these problems at the 21 Medical Examiner's Office to light? 22 A. A drastic change in the way it 23 functioned, funded and was led. 24 Q. And you felt that if the Governor</p>	<p style="text-align: center;">Page 220</p> <p>1 were made aware of the problems, he would 2 take that drastic action? 3 A. I hoped, prayed. 4 Q. Now, do you still have in front of 5 you what was marked Exhibit Number 12 in 6 this case? 7 A. (Witness viewing document). Yes. 8 Q. Okay. Now, that's the document 9 that you said was provided to you in 10 approximately May or June of 2002 -- 11 A. Correct. 12 Q. -- and that you understood to be a 13 document that was created for the express 14 purpose of providing the Governor with 15 information about things that were wrong 16 at the Medical Examiner's Office that 17 needed to be fixed? 18 A. Correct. 19 Q. Do you consider the letter that you 20 wrote on March 1st of 2004, and that's 21 been marked as Exhibit Number 26, is 22 giving the Governor new information over 23 and above what's contained in Exhibit 24 Number 12?</p>



<p style="text-align: center;">Page 221</p> <p>1 A. There are several items in the 2 letter that does give new information, 3 several other items that highlight how 4 much has deteriorated since the needs 5 assessment report. 6 Q. Okay. And you had a reasonable 7 belief in 2004 that if the Governor were 8 aware of the continued deterioration of 9 some of these items, that that would cause 10 a drastic change to be made on his part 11 even though the Exhibit Number 12 hadn't 12 caused that drastic change to be made? 13 MR. SHARP: Objection. Go 14 ahead. 15 A. Again, I hoped and prayed he would 16 make the changes because the good people 17 of Massachusetts deserved better and they 18 were not getting it. 19 Q. Okay. Now, this letter that you 20 wrote on -- that's been marked Exhibit 21 Number 26, did you give it to your 22 attorneys? 23 A. I worked with them on producing the 24 letter.</p>	<p style="text-align: center;">Page 222</p> <p>1 Q. Oh, so they helped you write it? 2 A. They helped me send it out. 3 Q. Did they help you write it? 4 MR. SHARP: Objection. Don't 5 answer. 6 BY MS. KELLEY: 7 Q. I believe you've already testified 8 they did; is that correct? 9 MR. SHARP: Objection. Don't 10 answer. 11 BY MS. KELLEY: 12 Q. Did you have any reason that you 13 specifically wanted that letter to get out 14 on March 1st as opposed to waiting a 15 couple of days or a week? 16 A. No specific reason. It had to get 17 out, that's all. 18 Q. Did you have any reason to want the 19 letter to be sent by fax to John Cronin 20 on March 1st? 21 A. I wanted him to be kept informed. 22 Q. If you had put it in the regular 23 mail he would have been kept informed; is 24 that fair to say?</p>
<p style="text-align: center;">Page 223</p> <p>1 A. No. It might have taken -- It 2 might have got lost in the mail. It 3 might have taken a long time to get there. 4 Q. So one of the things you yourself 5 wanted was that he be -- this letter be 6 faxed to him on that day to make sure he 7 got it? 8 A. That was the strategy we adopted. 9 Q. Okay. I'm saying that's what you 10 wanted. You wanted the letter faxed to 11 John Cronin that day to make sure he got 12 it right away. 13 A. Faxed to John Cronin at the same 14 time we faxed it to the Governor and chief 15 of state police. 16 Q. And I think you used the word 17 "strategy." That was the strategy that you 18 had for getting this letter out; is that 19 accurate? 20 A. Correct. 21 Q. Now, what's been marked as Exhibit 22 Number 27, that's a -- yet another letter 23 that you wrote to the Governor dated March 24 1st; is that correct?</p>	<p style="text-align: center;">Page 224</p> <p>1 A. (Witness viewing document). Yes. 2 Q. And that one is about organ 3 donations; is that correct? 4 A. (Witness viewing document). 5 Correct. 6 Q. I believe you've already testified 7 today that you created that document right 8 around March 2nd; is that right? 9 A. March 1st or 2nd, towards the end 10 of February. 11 Q. Okay. I believe you've testified 12 earlier today with respect to the 13 memorandum attached to that letter, that 14 you created that memorandum right around 15 March 2, 2004; is that correct? 16 A. If I did precisely mention a date, 17 and I'm not sure about that, it was around 18 that time period, not -- I cannot be sure 19 about the exact date when I prepared it. 20 Q. I think earlier, Doctor, you had 21 mentioned March 2nd because there was an 22 e-mail attached to it that was dated March 23 2nd and you were forwarding that memo 24 around the office.</p>



<p style="text-align: center;">Page 225</p> <p>1 A. Yes -- No, this document was 2 prepared prior to that. And the e-mail 3 was sent out on the 2nd, once I had 4 discussed it with my attorneys that it was 5 proper to send out at that point. 6 Q. So the document attached to Exhibit 7 Number 27 saying "Memorandum, the strange 8 death of blank -- 9 A. Yes. 10 Q. -- that may have been produced 11 March 1st; is that correct? 12 A. May have been. 13 Q. Around March 1st? 14 A. Yes. 15 Q. And again, was it important to you 16 that this document be faxed to John Cronin 17 right away? 18 A. We sent faxes to all the people we 19 send the document to. 20 Q. Why was that? 21 A. Send faxes. No specific reason. 22 Q. Okay. Do you do that in your 23 normal life, send a fax to everybody that 24 you send a letter to?</p>	<p style="text-align: center;">Page 226</p> <p>1 A. Frequently, yes. 2 Q. To make sure that it doesn't get 3 lost in the mail? 4 A. If they have a fax, yes. 5 Q. Okay. Now, this document, why did 6 you feel it was necessary to get this out 7 to Governor Romney right away on March 8 1st, 2004? 9 A. Again, another example of problems 10 at the Medical Examiner's Office with the 11 New England Organ Bank, the conflict with 12 that agency and the lack of people willing 13 to discuss problematic issues at the 14 office. 15 Q. And you were basically hoping that 16 a drastic change would be undertaken by 17 the Governor if he learned this from you 18 on March 1st, 2004. 19 A. Yes. 20 Q. Were you aware that these letters 21 were also sent by certified mail? 22 A. Yes. 23 Q. Was there -- So that would take 24 care of any problems about the letters</p>
<p style="text-align: center;">Page 227</p> <p>1 getting lost; is that fair to say? 2 A. Yes. 3 Q. But you still felt it was important 4 that the faxes go out. 5 A. Correct. 6 Q. And what was the reason for that? 7 A. Just dual ways of sending it out. 8 Q. Excuse me? 9 A. Dual ways of sending it out. 10 Q. Now, around the time that these 11 e-mails were going back and forth, Doctor, 12 the ones that have been marked as Exhibit 13 Number 25 -- 14 A. Yes. 15 Q. -- other than the e-mails 16 themselves, did you have discussions with 17 anybody in the office about what was going 18 on with respect to the baby case that you 19 were working on? 20 A. No. 21 Q. Well, at some point, did you have a 22 conversation with John Cronin about 23 completing the autopsy report? 24 A. John Cronin stormed into my office</p>	<p style="text-align: center;">Page 228</p> <p>1 when I was doing something, threw the 2 chart on my table and said, "Finish the 3 report. Enough is enough." And walked 4 out. 5 Q. When did that happen? 6 A. I believe it was on the evening of 7 the 2nd. 8 Q. And how do you tie that into a 9 time frame? 10 A. Sometime after normal office hours. 11 Q. I mean what makes you think it was 12 on the 2nd as opposed to the 1st or the 13 3rd or any other date? 14 A. Because I remember the sequence of 15 events that happened. 16 Q. Well, can you describe that 17 sequence of events? 18 A. I completed the report the next 19 day, after waiting for a witness to come 20 up on the 2nd and help me finish the 21 report earlier. So it had to be on the 22 evening of the 2nd. 23 Q. Okay. So the evening of the 2nd, 24 John Cronin storms into your office. By</p>



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1 this time you've already got the file that
2 you need to complete the autopsy report;
3 is that correct?
4 A. He brought it with him.
5 Q. I thought you said it was left on
6 your chair.
7 A. It was, and I placed it outside on
8 what used to be my secretary's table.
9 Q. Oh, okay. So he picked it up off
10 your secretary's table and brought it into
11 your office.
12 A. From somewhere. I don't know.
13 Q. Would you say that John Cronin was
14 angry with you about not completing the
15 autopsy report?
16 MR. SHARP: Objection.
17 A. I'm not reading his mind.
18 Q. Did he appear to you to be angry?
19 A. He appeared to use very threatening
20 body language.
21 Q. Well, you've already said he
22 stormed into your office; is that correct?
23 A. That's correct.
24 Q. Is it fair to say that by that

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1 time the relationship between you and John
2 Cronin had deteriorated?
3 A. Yes.
4 Q. Is it fair to say that he used
5 threatening body language, foul language
6 and threw the charts on your table?
7 A. Yes.
8 Q. So it's fair to say that you
9 understood he was angry with you about
10 those charts. Is that fair to say?
11 MR. SHARP: Objection. Do
12 you know what he was angry at you about?
13 BY MS. KELLEY:
14 Q. Is it fair to say that he was
15 angry with you about not having completed
16 the autopsy report, Doctor?
17 MR. SHARP: Objection. Do
18 you know what he was angry about?
19 THE WITNESS: No, I don't.
20 BY MS. KELLEY:
21 Q. Did he tell you he was angry about
22 your not having completed the autopsy
23 report?
24 A. He told me he wanted me to finish

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1 the autopsy report and threw things on my
2 desk.
3 Q. But it's your testimony that you
4 really have no idea whether that's what he
5 was mad at you about?
6 A. I'm not interpreting his mental
7 thought processes at that time.
8 Q. Okay. Now, after that meeting with
9 John Cronin where he came in and threw the
10 files on your desk, did you have any
11 further discussion with him about the
12 child case that we've been discussing?
13 A. No, I didn't.
14 Q. Did you have any further discussion
15 with Jackie Faherty about it?
16 A. No, I didn't.
17 Q. What's the next thing that
18 happened, Doctor, with respect to your
19 employment at the Medical Examiner's
20 Office?
21 A. The next morning was a -- one of
22 those rare light days at the office where
23 there wasn't much -- many cases. I did
24 paperwork the whole morning. And in the

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1 afternoon I was leaving to do cremations,
2 as it was my turn to do that, and I was
3 told I could not go for cremations.
4 Q. Who told you that?
5 A. John Cronin.
6 Q. Did he say why?
7 A. No.
8 Q. He just said you couldn't go?
9 A. Yes.
10 Q. Did he say anything else, any other
11 words in his conversation when he talked
12 to you?
13 A. He asked me to return the office
14 car keys.
15 Q. Did he say why?
16 A. No.
17 Q. Why did you have office car keys?
18 A. We went for cremation rounds with
19 office car keys -- with the office car,
20 the Jeep.
21 Q. Was that the only purpose that you
22 used the office car keys for?
23 A. Yes.
24 Q. Did he say anything else in this



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<p style="text-align: center;">Page 233</p> <p>1 conversation?</p> <p>2 A. He asked me to come up to his</p> <p>3 office to discuss something.</p> <p>4 Q. And what happened next?</p> <p>5 A. I told him he would have to set it</p> <p>6 up with my attorneys.</p> <p>7 Q. You weren't even willing to talk to</p> <p>8 your boss without having your attorneys</p> <p>9 talk to him?</p> <p>10 A. That's correct.</p> <p>11 Q. Did you consider you were already</p> <p>12 fired?</p> <p>13 A. No.</p> <p>14 Q. And what was the basis for your</p> <p>15 saying to talk to your attorneys?</p> <p>16 A. Because matters had deteriorated so</p> <p>17 much that I felt the attorneys needed to</p> <p>18 be present.</p> <p>19 Q. How did John Cronin respond to</p> <p>20 that?</p> <p>21 A. Snorted.</p> <p>22 Q. Excuse me?</p> <p>23 A. He snorted.</p> <p>24 Q. Did he say anything?</p>	<p style="text-align: center;">Page 234</p> <p>1 A. No.</p> <p>2 Q. Then did you leave?</p> <p>3 A. I went back to my office.</p> <p>4 Q. And?</p> <p>5 A. Did some more paperwork.</p> <p>6 Q. Did you call your attorneys?</p> <p>7 A. No.</p> <p>8 Q. What did you do next?</p> <p>9 A. Once I finished my eight hours of</p> <p>10 work, I left the office and went home.</p> <p>11 Q. During that time, did anybody else</p> <p>12 from the office try to make any kind of</p> <p>13 contact with you?</p> <p>14 A. No.</p> <p>15 Q. Did you try to make contact with</p> <p>16 anybody else at the office?</p> <p>17 A. No.</p> <p>18 Q. As of that time -- We're now</p> <p>19 talking about March 3rd; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. As of March 3rd, did you consider</p> <p>22 that basically you were going to be fired?</p> <p>23 A. I considered I was going to be</p> <p>24 fired on March -- February 25th.</p>
<p style="text-align: center;">Page 235</p> <p>1 Q. As soon as you got that letter with</p> <p>2 the one-day suspension?</p> <p>3 A. Yes. The letter, to me, appeared</p> <p>4 as a setup.</p> <p>5 Q. So as of February 25th, you felt</p> <p>6 you were already on pretty shaky ground at</p> <p>7 the Medical Examiner's Office; is that</p> <p>8 fair to say?</p> <p>9 A. Yes.</p> <p>10 Q. And that you might well be fired</p> <p>11 within the next week or two.</p> <p>12 A. Yes.</p> <p>13 Q. What's the next thing that you</p> <p>14 heard or learned about your employment</p> <p>15 with the Medical Examiner's Office?</p> <p>16 A. I got a letter in the mail that my</p> <p>17 contract had been terminated.</p> <p>18 Q. When did you receive that?</p> <p>19 A. On the 4th.</p> <p>20 Q. Did it come by regular mail?</p> <p>21 A. Certified mail, UPS or whatever,</p> <p>22 one of those.</p> <p>23 Q. Some kind of special delivery?</p> <p>24 A. Yes.</p>	<p style="text-align: center;">Page 236</p> <p>1 Q. Did you have to sign for it?</p> <p>2 A. Yes.</p> <p>3 MS. KELLEY: Could I have</p> <p>4 this marked as the next exhibit, please?</p> <p>5 (Exhibit-28, March 3, 2004,</p> <p>6 Letter Bates Stamped AGO-0026, marked for</p> <p>7 identification).</p> <p>8 BY MS. KELLEY:</p> <p>9 Q. Doctor Philip, the document that's</p> <p>10 been placed before you is Exhibit Number</p> <p>11 28. Is that a copy of the letter that</p> <p>12 you received on the 4th of March, 2004?</p> <p>13 A. (Witness viewing document). Yes.</p> <p>14 Q. There's a reference in this</p> <p>15 letter --</p> <p>16 (Interruption).</p> <p>17 MR. SHARP: Excuse me.</p> <p>18 MS. KELLEY: That's all</p> <p>19 right.</p> <p>20 (Recess taken).</p> <p>21 BY MS. KELLEY:</p> <p>22 Q. There's a reference in this letter</p> <p>23 to communicating with Denise Sarro, the</p> <p>24 human resources director about having</p>



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1 certain property returned; is that correct?
2 A. (Witness viewing document).
3 Correct.
4 Q. Did Denise Sarro call you on March
5 4th?
6 A. I think she did -- or she called
7 Elaine Sharp, not me.
8 Q. Well, do you recall -- Do you
9 recall having a conversation with --
10 A. No, I don't.
11 Q. -- Denise? As far as you know,
12 were you first informed of your
13 termination by this letter or through
14 Denise Sarro's phone conversations?
15 A. I was informed of my termination
16 through this letter.
17 Q. But you believe that Denise Sarro
18 spoke to your attorney?
19 A. I have no proof of that.
20 Q. Okay. At some point, did you
21 receive from Denise Sarro her cell phone
22 number and a request that you contact her
23 to make arrangements about retrieving your
24 personal belongings?

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1 A. I didn't.
2 Q. So again, if there were such a
3 message, you believe it was probably
4 through your attorneys?
5 A. Correct.
6 MS. KELLEY: Could we have
7 this marked as the next exhibit?
8 (Exhibit-29, Handwritten
9 Document Bates Stamped AGO-0042, marked for
10 identification).
11 BY MS. KELLEY:
12 Q. Doctor, the document that's been
13 put in front of you is Exhibit Number 29.
14 Can you identify what that document is?
15 A. (Witness viewing document). Yes.
16 Q. What is it?
17 A. (Witness viewing document). It's a
18 note I passed out to Sosha Hayes, who was
19 a technician, in the presence of the
20 Deputy Chief Medical Examiner, Joann
21 Richmond.
22 Q. And I'm sorry, who's the person you
23 gave it to?
24 A. Sosha Hayes.

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1 Q. How do spell --
2 A. S-O-S-H-A.
3 Q. -- her first name?
4 A. Hayes, H-A-Y-E-S.
5 Q. And she was a technician?
6 A. Correct.
7 Q. And you did this on March 3rd of
8 2004?
9 A. Yes.
10 Q. The morning or the afternoon?
11 A. Morning.
12 Q. And you did it in the presence of
13 whom?
14 A. Joann Richmond.
15 Q. And what was your purpose in giving
16 Sosha this document?
17 A. Just change the -- make a fashion
18 statement.
19 Q. Well, you're asking them to make a
20 fashion statement by wearing suspenders and
21 a bow tie or scarf allegedly to show their
22 support of you; is that right?
23 A. I just asked them for a fashion
24 statement.

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1 Q. Well, did you ask that this be
2 submitted to most of the personnel in the
3 Medical Examiner's Office?
4 A. Yes.
5 Q. And you're asking that the
6 personnel in the Medical Examiner's Office
7 wear a scarf -- or wear suspenders and a
8 bow tie or scarf to work on the next day;
9 is that correct?
10 A. No. It says wear it permanently,
11 improve the quality of the clothing.
12 Q. I'm sorry. I didn't understand
13 what you said.
14 A. Just improve the quality of the
15 uniforms that people wore.
16 Q. Okay. Well, you say at the
17 beginning, "As you will probably hear I am
18 in big trouble with the senior
19 administrators in our agency." Did you
20 say that?
21 A. That's a fact.
22 Q. "If you have any regards for the
23 good and bad times we have shared over the
24 last six months, please wear suspenders



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1 and a bow tie or scarf to work tomorrow."
 2 Did I read that correctly?
 3 A. (Witness viewing document). Yes.
 4 Q. So you're asking them to wear these
 5 clothes, not just to look better, but in
 6 support of you somehow; is that correct?
 7 A. I have not said that.
 8 Q. You're denying that that's true?
 9 A. I -- Yes, I did request them to
 10 wear a bow tie -- I was already wearing a
 11 bow tie at that point and I suggested that
 12 other people should wear a bow tie.
 13 Q. Is that tied into the fact that
 14 you're having problems with the senior
 15 administrators or is it completely
 16 separate?
 17 A. It is tied into that.
 18 Q. So you're suggesting that other
 19 people, if they want to support you, they
 20 should dress like this.
 21 A. Correct.
 22 Q. As far as you know, was this handed
 23 out to anybody at the office other than
 24 the person you gave it to?

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1 A. I don't know.
 2 Q. As far as you know, did anyone wear
 3 suspenders and a bow tie or a scarf?
 4 A. I don't know. I was not there to
 5 check.
 6 Q. Did you ever hear from anybody that
 7 that happened?
 8 A. No, I didn't.
 9 MS. KELLEY: Can we take a
 10 short break?
 11 (Recess taken).
 12 BY MS. KELLEY:
 13 Q. Doctor, are you making a claim in
 14 this case that you've suffered some sort
 15 of physical harm as a result of the
 16 conduct of the Commonwealth or the Medical
 17 Examiner's Office?
 18 A. Yes, I am.
 19 Q. And what -- Can you describe the
 20 nature of the physical harm you say you're
 21 suffering from?
 22 A. I suffered from symptoms of
 23 anxiety, and for some time I had raising
 24 of pulse and shortness of breath.

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1 Q. Approximately when did that occur?
 2 A. July, August.
 3 Q. Of 2004?
 4 A. 2004, yeah.
 5 Q. Is that over now?
 6 A. Yes, it is.
 7 Q. And what symptoms of anxiety did
 8 you express?
 9 A. I was extremely fearful of things
 10 happening. I felt I was being watched or
 11 monitored. I had some strange visitors.
 12 Q. What strange visitors?
 13 A. I had the wife of a Beverly police
 14 officer come to my home and probe for
 15 information.
 16 And I felt that I was being watched
 17 or observed, my movements were being
 18 recorded. I had a strange person opening
 19 the door of my car while I was at a
 20 parking lot and I panicked thinking that
 21 the person might be a state police officer
 22 trying to get at me.
 23 Q. When did these things happen?
 24 A. The person opening my car was, I

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1 think, on the 1st of March. The lady
 2 visiting was within a couple of months
 3 after that.
 4 Q. First of March, 2004?
 5 A. Four, yes.
 6 Q. So on March 1st, even before you
 7 were terminated --
 8 A. Correct.
 9 Q. -- you were concerned that there
 10 were people trying to get at you?
 11 A. Yes.
 12 Q. And the wife of the Beverly police
 13 officer, what's his name or her name?
 14 A. He is Lieutenant Ray. Her name is
 15 Corrine Ray.
 16 Q. W-R-A-Y?
 17 A. R-A-Y.
 18 Q. R-A-Y.
 19 Since that period a couple months
 20 after March of 2004, have anything -- have
 21 any other things like that happened to you
 22 where you were fearful?
 23 A. No. Since then, I decided to cut
 24 off everything and just focus on my boards



<p>Page 245</p> <p>1 so it worked itself out. 2 Q. Now, in response to our request for 3 production of documents, you indicated that 4 you would be willing to sign medical 5 releases. 6 A. Yes. 7 MS. KELLEY: So, Dan, I 8 take it off the record, after we're done, 9 we can work on getting some release 10 language. 11 MR. SHARP: Yeah. 12 BY MS. KELLEY: 13 Q. Now, also, Doctor, Philip, in 14 response to our request for production of 15 documents, we had requested certain 16 information about your tax returns for a 17 period of time, and you've objected to 18 anything prior to 2001 as being irrelevant 19 to this case. Do you have an 20 understanding of that? 21 A. Yes. 22 Q. And what's the basis for saying 23 that anything prior to 2001 is not 24 relevant?</p>	<p>Page 246</p> <p>1 A. I don't see what role it plays in 2 this -- in this case. 3 Q. As part of this case, are you 4 making a claim that your income is 5 diminished from what it should have been? 6 A. Yes. 7 Q. Can you quantify that at all in 8 terms of amounts? 9 THE WITNESS: Do we have 10 that? 11 MR. SHARP: Well, you can 12 start with 117,000. 13 A. Yeah. The contract -- the salary 14 portion that was unpaid. 15 Q. How much was your whole contract 16 for the year? 17 A. One hundred seventeen. 18 Q. And you were paid for part of that 19 year, but not the rest of it. 20 A. Six -- Six months. 21 Q. So approximately half of the 117? 22 A. Yes. 23 Q. Are you making any claim that after 24 that contract year, your salary has been</p>
<p>Page 247</p> <p>1 diminished on account of the conduct of 2 the Commonwealth? 3 A. No. 4 Q. So in terms of financial loss, 5 you're just claiming those six months, the 6 last part of your contract? 7 A. Yes, plus lawyer fees and all that. 8 Q. Okay. Plus lawyers' fees and what 9 else? 10 A. Whatever has been put in the 11 complaint. 12 Q. Well, sitting here today, do you 13 know of any financial loss that you're 14 making claim for other than six months 15 under that contract and your attorneys' 16 fees? 17 THE WITNESS: Do we have 18 the complaint? 19 MR. SHARP: Well, can you 20 distinguish perhaps between economic 21 damages and medical -- 22 MS. KELLEY: Okay. 23 MR. SHARP: -- that might 24 be going on here?</p>	<p>Page 248</p> <p>1 BY MS. KELLEY: 2 Q. I'll separate that out, Doctor, 3 because I think it's a fair question. 4 Separating out for the moment any 5 medical-related issues and just focusing on 6 financial damage that you allege you have 7 suffered, you allege you've suffered 8 attorneys' fees; is that correct? 9 A. Yes. 10 Q. And approximately half of the 11 contract year of your contract with the 12 Medical Examiner's Office; is that correct? 13 A. Correct. 14 Q. Are you alleging that your present 15 employment -- in your present employment, 16 you're making less money that you would 17 have had made but for the conduct of the 18 Commonwealth? 19 A. Yes. 20 Q. And how are you alleging that? 21 A. Because I would be fully employed 22 over here. 23 Q. Well, you -- 24 A. The contract would continue until</p>



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1 permanent employment was offered. The
 2 problem with offering permanent employment
 3 was the nonavailability of a chief medical
 4 examiner. Now, there's a new chief
 5 medical examiner and I was hopeful that I
 6 would be a state employee at some point.
 7 Q. But you've now had some time to go
 8 out and look for other jobs. Are you
 9 saying that somehow you have been harmed
 10 in your search for other employment as a
 11 result of anything the Commonwealth did?
 12 A. Yes. It has been difficult getting
 13 another job which means relocating my
 14 family, my wife giving up her job and
 15 having very tough economic decisions to
 16 make.
 17 Q. Has your wife given up her job?
 18 A. No, she hasn't.
 19 Q. Now, going over to medical things,
 20 are you alleging that you suffered some
 21 financial loss on account of medical
 22 things?
 23 A. Minor financial losses due to
 24 medical things.

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1 Q. And can you describe those?
 2 A. The same; anxiety and depression,
 3 loss of consortium.
 4 Q. To the extent that you were
 5 suffering from anxiety and depression, do
 6 you know approximately how long that
 7 lasted?
 8 A. 'Til about October -- September,
 9 October.
 10 Q. Of 2004?
 11 A. 2004.
 12 Q. And what about loss of consortium?
 13 A. It's ongoing.
 14 Q. Can you describe what you mean by
 15 that?
 16 A. Decreased libido, loss of interest
 17 in sex.
 18 Q. And you're saying that that's
 19 related to what happened between you and
 20 the Commonwealth?
 21 A. Yes, because money has been --
 22 we've had a tremendous shortage of money
 23 which leads to bickering between a husband
 24 and spouse.

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1 Q. Is that the primary problem between
 2 you and your wife right now is shortage of
 3 money?
 4 A. Among other things.
 5 Q. What else?
 6 A. I'm trying to start my own business
 7 doing private autopsies and I can't fund
 8 the business.
 9 Q. Are you saying that your ongoing
 10 consortium problems with your wife are
 11 related to money problems?
 12 A. No, to getting fired, not having a
 13 job, being at home. All that.
 14 Q. Can I ask, Doctor, before you were
 15 employed -- or before you entered into the
 16 fellowship at the Medical Examiner's Office
 17 in the year 2000, were you ever employed
 18 in the United States before that?
 19 A. Yes.
 20 Q. Where were you employed?
 21 A. In Nashville, Tennessee.
 22 Q. And what period of employment?
 23 A. July and August of '99.
 24 Q. What was your job there?

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1 A. Pathologist.
 2 Q. And before that, were you employed
 3 anywhere in the United States?
 4 A. Before that, I was doing a
 5 fellowship at Emory University Hospital.
 6 Emory, E-M-O-R-Y.
 7 Q. And what was the period of time you
 8 were doing that?
 9 A. Ninety-eight -- July '98 to June
 10 '99.
 11 Q. Any other employment in the United
 12 States?
 13 A. I was a resident at the Boston
 14 University Medical Center.
 15 Q. In what period of time?
 16 A. July '93 to June '98.
 17 Q. Anything else?
 18 A. I worked for University Services.
 19 I was reviewing --
 20 Q. You've already described that.
 21 A. That's it.
 22 Q. When did you first come to this
 23 country?
 24 A. January 15, 1991.



<p style="text-align: center;">Page 253</p> <p>1 Q. And what did you do from January of 2 '91 to July of '93? 3 A. I was studying for the boards. I 4 had to take the ECFMG and FLEX exams. 5 Q. I think you're going to have to 6 spell -- 7 A. ECFMG. Those are -- It's a 8 mnemonic for Educational Council for 9 Foreign Medical Graduates, and the Federal 10 Licensing Exams. There are a set of five 11 exams that I had to take. 12 Q. And during the period, you were -- 13 7/93 to 6/98 when you were a resident at 14 BU. 15 A. Yes. 16 Q. So that was about a five-year 17 residency. 18 A. Yes. 19 Q. Was there some reason that you had 20 to do a five-year residency like that? 21 A. The anatomic and pathology 22 residency is for five years. 23 Q. Okay. So you didn't get any credit 24 for the work you had already done in</p>	<p style="text-align: center;">Page 254</p> <p>1 India? 2 A. No. 3 Q. Were you qualified as a forensic 4 pathologist in India? 5 A. Yes. 6 Q. Doctor, in your answers to 7 interrogatories you've mentioned your 8 primary care physician, Jerome Sobieraj. 9 A. Correct. 10 Q. Sobieraj, S-O-B-I-E-R-A-J. Is he 11 the only doctor that you have seen on 12 account of any anxiety or depression that 13 you suffered as a result of any conduct of 14 the Commonwealth in this case? 15 A. Yes. 16 MS. KELLEY: I have no 17 further questions. 18 MR. SHARP: Nothing here. 19 (Original exhibits retained 20 by Ms. Kelley). 21 (Deposition of ABRAHAM 22 PHILIP, M.D. concluded at 4:18 p.m.) 23 . 24 .</p>
<p style="text-align: center;">Page 255</p> <p>1 CAPTION 2 The Deposition of ABRAHAM PHILIP, M.D. 3 taken in the matter, on the date, and at the 4 time and place set out on the title page 5 hereof. 6 It was requested that the deposition 7 be taken by the Reporter and that same be 8 reduced to typewritten form. 9 It was agreed by and between counsel 10 and the parties that the Deponent will read 11 and sign the transcript of said deposition. 12 . 13 . 14 . 15 . 16 . 17 . 18 . 19 . 20 . 21 . 22 . 23 . 24 .</p>	<p style="text-align: center;">Page 256</p> <p>1 CERTIFICATE 2 I, ABRAHAM PHILIP, M.D., hereby 3 certify under the pains and penalties of 4 perjury that I have read the foregoing 5 transcript of my testimony and further 6 certify that said transcript is a true and 7 accurate record of my testimony (with the 8 exception of the corrections, additions and/or 9 deletions noted below). 10 PAGE LINE CORRECTIONS, ADDITIONS AND/OR DELETIONS 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 Signed under the pains and penalties 21 of perjury this ____ day of _____, 22 2005. 23 _____ 24 ABRAHAM PHILIP, M.D.</p>



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1 CERTIFICATE
2 COMMONWEALTH OF MASSACHUSETTS
3 SUFFOLK SS.

4 I, SUSAN A. ROMANO, Certified Shorthand
5 Reporter No. 119393, Registered Merit Reporter
6 and Notary Public in and for the Commonwealth
7 of Massachusetts, do hereby certify that the
8 witness whose deposition is hereinbefore set
9 forth, was duly sworn and that such
10 deposition is a true record of the testimony
11 given by the witness.

12 I further certify that I am neither
13 related to or employed by any of the parties
14 in or counsel to this action, nor am I
15 financially interested in the outcome of this
16 action.

17 In witness whereof, I have hereunto set
18 my hand and seal this 1st day of August,
19 2005.

20

21

22

23 Susan A. Romano, Notary Public
24 My commission expires April 21, 2006



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